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James J. Ajello - July 16, 2021

Christopher W. Stoneman vs Norfolk Iron & Metal, et al.

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**EXHIBIT 1**

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<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF MISSOURI</p> <p>3 WESTERN DIVISION</p> <p>4 CHRISTOPHER W. STONEMAN,</p> <p>5 Plaintiff,</p> <p>6 vs. Case No. 4:21-cv-00061-SRB</p> <p>7 NORFOLK IRON &amp; METAL</p> <p>8 and JAMES J. AJELLO,</p> <p>9 Defendants.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 VIDEO-RECORDED DEPOSITION OF JAMES J. AJELLO, a</p> <p>17 Defendant, taken on behalf of the Plaintiff,</p> <p>18 pursuant to Notice, on July 16, 2021, at the offices</p> <p>19 of BROWN &amp; JAMES, PC, 2345 Grand Boulevard, Suite</p> <p>20 2100, Kansas City, Missouri 64108, before</p> <p>21</p> <p>22 ELLEN L. STOCK</p> <p>23</p> <p>24 Registered Merit Reporter Certified in Missouri and</p> <p>25 Kansas.</p>	<p>1 TABLE OF CONTENTS</p> <p>2 EXAMINATION</p> <p>3 Questions By Mr. Thompson 4</p> <p>4 Questions By Mr. Lester 105</p> <p>5</p> <p>6 EXHIBITS</p> <p>7 14 - "Driver Qualification" 14</p> <p>8 16 - "Accident Investigation" file 32</p> <p>9 19 - Answers to first interrogatories 13</p> <p>10</p> <p>11 CERTIFICATE OF REPORTER 107</p> <p>12 ERRATA SHEET 108</p> <p>13 SIGNATURE PAGE 109</p> <p>14</p> <p>15 Reporter's Note: Electronic exhibits provided</p> <p>16 by counsel were made OCR searchable (PDF),</p> <p>17 downsampling to 600 dpi, digitally labeled if</p> <p>18 not previously labeled, flattened, archived as</p> <p>19 original exhibits, and provided electronically</p> <p>20 to all ordering counsel. Processing electronic</p> <p>21 exhibits can change the file size, resolution,</p> <p>22 and metadata of files originally provided.</p> <p>23 (ph) indicates a phonetic spelling.</p> <p>24 [sic] indicates the text is as stated.</p> <p>25 Quoted text is as stated by the speaker.</p>
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<p>1 APPEARANCES</p> <p>2 For the Plaintiff:</p> <p>3 MR. JAMES T. THOMPSON</p> <p>4 EDELMAN &amp; THOMPSON, LLC</p> <p>5 3100 Broadway, Suite 1400</p> <p>6 Kansas City, Missouri 64111</p> <p>7 jthompson@etkclaw.com</p> <p>8 (816) 561-3400</p> <p>9</p> <p>10 For the Defendants:</p> <p>11 MR. MICHAEL B. LESTER</p> <p>12 BROWN &amp; JAMES, PC</p> <p>13 2345 Grand Boulevard, Suite 2100</p> <p>14 Kansas City, Missouri 64108</p> <p>15 mlester@bjpc.com</p> <p>16 (816) 472-0800</p> <p>17</p> <p>18 Videographer:</p> <p>19 MR. BRIAN CAIN</p> <p>20 TELE-BUSINESS COMMUNICATIONS, INC.</p> <p>21 415 Southeast Douglas Street, Suite A</p> <p>22 Lee's Summit, Missouri 64063</p> <p>23</p> <p>24 Also Present:</p> <p>25 Ms. Christy Bingham</p>	<p>1 (The deposition commenced at 2:30 p.m.)</p> <p>2 THE VIDEOGRAPHER: We are on the record.</p> <p>3 The time now is 2:30 p.m., July 16th, 2021. This</p> <p>4 begins the deposition of Mr. James Ajello in a case</p> <p>5 styled Christopher Stoneman versus Norfolk Iron &amp;</p> <p>6 Metal and James Ajello. The United States District</p> <p>7 Court for the Western District of Missouri at Kansas</p> <p>8 City. Case No. 4:21-CV00061-SRB.</p> <p>9 Counsel please identify themselves.</p> <p>10 MR. THOMPSON: James Thompson on behalf of</p> <p>11 the plaintiff, Christopher Stoneman.</p> <p>12 MR. LESTER: Michael Lester on behalf of</p> <p>13 defendants.</p> <p>14 THE VIDEOGRAPHER: Please swear the</p> <p>15 witness.</p> <p>16 JAMES J. AJELLO,</p> <p>17 a Defendant, being first duly sworn, testified under</p> <p>18 oath as follows:</p> <p>19 EXAMINATION</p> <p>20 BY MR. THOMPSON:</p> <p>21 Q. Mr. Ajello, good afternoon. We had an</p> <p>22 opportunity to briefly introduce ourselves before we</p> <p>23 got going today. My name is James Thompson, and I</p> <p>24 have the privilege of representing Christopher</p> <p>25 Stoneman in a case that has been filed against you</p>

<p style="text-align: right;">Page 5</p> <p>1 and against Norfolk Iron &amp; Metal in the -- in the  2 United States District Court for the Western  3 District of Missouri. Do you understand you're here  4 to give sworn testimony in that case?  5 A. Yes.  6 Q. Mr. Ajello, have you ever given a  7 deposition before?  8 A. I have not.  9 Q. Well, contrary to popular belief, it's a  10 painless process. We'll try to get you out of here  11 as soon as we can today. We appreciate your time on  12 a Friday afternoon coming down to visit with us.  13 There are -- excuse me, there are a few  14 guidelines or ground rules that hopefully make it  15 easier for you, make it easier for Ellen and make it  16 easier for Brian, the videographer; so I'm going to  17 go over some of those now. Okay?  18 A. Yes.  19 Q. First and foremost, there's a tendency for  20 you to -- to know how my question's going to end  21 very often before it ends, and human nature is to  22 start to answer that question as if we were in  23 normal conversation. That makes it very hard for  24 the court reporter, as skilled as she is, to take us  25 both down at the same time.</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Of course.  2 Q. Also, as we -- you heard us banter a bit  3 beforehand, sometimes attorneys object to questions.  4 If Mr. Lester is misguided and believes that my  5 question is objectionable, he has a right and an  6 obligation to you as -- as his client to state that  7 objection.  8 But the objection's not to tell you not to  9 answer the question, it's putting something on the  10 record that he believes the judge needs to look at  11 at a later point in time and make a determination as  12 to whether or not the question is appropriate in its  13 form or not.  14 So please let Mr. Lester state his  15 objection fully for the record. Once he's finished,  16 you can go ahead and answer that question. Okay?  17 A. Okay.  18 Q. And the exception to that would be if  19 he instructs you not to answer, and I'll leave that  20 up to the two of you on how to proceed with that on  21 that score. Okay?  22 A. Okay.  23 Q. Also, if at any time -- I will tell you,  24 as important as Ellen is, you're the most important  25 person in the room here today because you've taken</p>
<p style="text-align: right;">Page 6</p> <p>1 So try to make sure my question is  2 completely finished before you go ahead and start to  3 answer the question. I will try to make sure that  4 you're completely answered with your question before  5 I follow up with another question. Okay?  6 A. Yes.  7 Q. This isn't going to be under the hot  8 bright light and rapid-fire questions; so we're  9 going to take our time today and -- and try to be as  10 efficient as possible.  11 Also, it's extremely important that you  12 understand my questions. If you don't understand my  13 questions, it's not your fault, it's my fault, I've  14 asked a poor question, and I do that on occasion. I  15 just need to know that you don't understand my  16 question so I have an opportunity to rephrase it in  17 a way that you will understand.  18 So if you don't understand a question, or  19 you don't believe you've heard the entire question,  20 will you let me know that?  21 A. Of course.  22 Q. If you go ahead and answer the question,  23 can I assume, and the folks on the jury assume, that  24 you answered it truthfully and to the best of your  25 recollection today?</p>	<p style="text-align: right;">Page 8</p> <p>1 your time to come and visit with us on these -- on  2 these issues; so if at any time you need to take a  3 break, just let me know you need to take a break,  4 and I will certainly afford you that courtesy. I'm  5 not going to ask you why you need to take a break,  6 you just have to let me know. Okay?  7 A. I appreciate that. Thank you.  8 Q. If -- the only exception -- there's always  9 an exception to a rule. The only exception is if a  10 question's pending, you need to go ahead and answer  11 that question, and then we'll immediately take the  12 break. Okay?  13 A. I understand that, yes.  14 Q. All right. Can you go ahead and state  15 your full name for the record, please?  16 A. James Joseph Ajello.  17 Q. And, Mr. Ajello, where do you live?  18 What's your address?  19 A. 2318 Arrowhead Drive, Emporia, Kansas  20 66801.  21 Q. And who do you live with at that address?  22 A. My wife.  23 Q. And what is her name?  24 A. Teresa, without the H.  25 Q. Okay. And are you currently employed,</p>

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<p style="text-align: right;">Page 9</p> <p>1 sir?</p> <p>2 A. Yes, I am.</p> <p>3 <b>Q. And where are you currently employed?</b></p> <p>4 A. I am employed with NIM Transportation in</p> <p>5 Emporia, Kansas.</p> <p>6 <b>Q. And what type of business is NIM</b></p> <p>7 <b>Transportation?</b></p> <p>8 A. NIM Transportation is a transportation</p> <p>9 division, I would guess, of Norfolk Iron &amp; Metal.</p> <p>10 <b>Q. And when you say the "transportation</b></p> <p>11 <b>division," kind of -- what does that mean? What --</b></p> <p>12 A. It's a separate company.</p> <p>13 <b>Q. Okay. And you transport product for</b></p> <p>14 <b>Norfolk Iron &amp; Metal primarily?</b></p> <p>15 A. That's correct, yes.</p> <p>16 <b>Q. I assume that you don't transport product</b></p> <p>17 <b>for anyone else other than Norfolk Iron &amp; Metal; is</b></p> <p>18 <b>that fair?</b></p> <p>19 A. That is very correct.</p> <p>20 <b>Q. And what type of business is Norfolk Iron</b></p> <p>21 <b>&amp; Metal in?</b></p> <p>22 A. They're a metal service company, which</p> <p>23 they're pretty much like a middleman for the steel</p> <p>24 distribution business. We'll have company --</p> <p>25 different companies call in orders, and they'll fill</p>	<p style="text-align: right;">Page 11</p> <p>1 you reviewed the police report?</p> <p>2 A. I saw the -- yes, I did.</p> <p>3 <b>Q. Okay.</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. There's some -- there is a document that</b></p> <p>6 <b>appears, anyway, to be some handwritten -- it's a</b></p> <p>7 <b>handwritten form that may have been filled out by</b></p> <p>8 <b>you at the time of the accident. Have you looked at</b></p> <p>9 <b>that document?</b></p> <p>10 A. I possibly have. If it was part of the</p> <p>11 accident kit, then it was filled out by me at the</p> <p>12 scene.</p> <p>13 <b>Q. Okay. And NIM Transportation has an</b></p> <p>14 <b>accident kit; right?</b></p> <p>15 A. That's correct.</p> <p>16 <b>Q. And that's something that you keep in the</b></p> <p>17 <b>cab?</b></p> <p>18 A. Absolutely.</p> <p>19 <b>Q. And if in -- in the unfortunate occurrence</b></p> <p>20 <b>that there's an accident, you're instructed to fill</b></p> <p>21 <b>that out; fair?</b></p> <p>22 A. With any kind of incident.</p> <p>23 <b>Q. Okay. Any other documents that you recall</b></p> <p>24 <b>filling out? Or, I'm sorry, any other documents you</b></p> <p>25 <b>recall reviewing in preparation for your testimony</b></p>
<p style="text-align: right;">Page 10</p> <p>1 the orders and load them on the trailers in specific</p> <p>2 routes to be delivered.</p> <p>3 <b>Q. So they're not involved in the actual</b></p> <p>4 <b>manufacture of steel products; is that fair?</b></p> <p>5 A. Absolutely not.</p> <p>6 <b>Q. Okay.</b></p> <p>7 A. They do have some processing.</p> <p>8 <b>Q. But there's no furnaces sitting around the</b></p> <p>9 <b>plant?</b></p> <p>10 A. Heavens, no.</p> <p>11 <b>Q. And how long have you worked for NIM</b></p> <p>12 <b>Transportation?</b></p> <p>13 A. My next anniversary will be 20 years.</p> <p>14 <b>Q. Have you enjoyed it?</b></p> <p>15 A. Most of the time.</p> <p>16 <b>Q. Have you reviewed any documents in</b></p> <p>17 <b>preparation for your testimony here today?</b></p> <p>18 A. I've only seen the things that were</p> <p>19 discovered. As far as anything else, no.</p> <p>20 <b>Q. Well, let -- let me try to -- let's try to</b></p> <p>21 <b>figure out, when you -- you use the things that were</b></p> <p>22 <b>discovered, let me try to find out a little bit by</b></p> <p>23 <b>what you mean by that. All right?</b></p> <p>24 A. Okay.</p> <p>25 <b>Q. Did you look at the police report? Have</b></p>	<p style="text-align: right;">Page 12</p> <p>1 here today?</p> <p>2 A. I know there was -- my driver's</p> <p>3 qualification file was there, but I didn't really go</p> <p>4 through it all. It seemed to be quite thick.</p> <p>5 <b>Q. Yeah, your driver qualification file, as</b></p> <p>6 <b>it was produced in this case, and I think there's</b></p> <p>7 <b>some things that are actually even beyond the scope</b></p> <p>8 <b>of a -- of an actual driver qualification file, but</b></p> <p>9 <b>it was 700-and-some pages as it's produced. You</b></p> <p>10 <b>didn't go through each and every page, did you, sir?</b></p> <p>11 A. Heavens, no, I -- I really didn't review</p> <p>12 anything in there.</p> <p>13 <b>Q. Okay. Anything else you recall reviewing</b></p> <p>14 <b>in preparation for your testimony? Did you look at</b></p> <p>15 <b>any photographs?</b></p> <p>16 A. I did see a few that -- that were</p> <p>17 submitted by I believe your side.</p> <p>18 <b>Q. What -- what were those photos of, if you</b></p> <p>19 <b>remember? Were they, for instance, of the roadway,</b></p> <p>20 <b>the vehicles involved?</b></p> <p>21 A. Primarily, it was just my vehicle.</p> <p>22 <b>Q. Okay.</b></p> <p>23 MR. LESTER: Just --</p> <p>24 A. I don't remember any --</p> <p>25 MR. LESTER: -- to clarify, it was the</p>

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<p>1 deposition exhibits.</p> <p>2 MR. THOMPSON: Okay.</p> <p>3 THE WITNESS: I apologize.</p> <p>4 MR. LESTER: No, I --</p> <p>5 MR. THOMPSON: No, it's not your --</p> <p>6 Mr. Lester's just trying to expedite things here so</p> <p>7 there's a little clarity.</p> <p>8 <b>Q. (By Mr. Thompson) Anything else other</b></p> <p>9 <b>than the photographs you've just described and</b></p> <p>10 <b>Mr. Lester has given us guidance on, the handwritten</b></p> <p>11 <b>material in the accident kit, the police report that</b></p> <p>12 <b>you would have reviewed particularly to prepare for</b></p> <p>13 <b>this deposition?</b></p> <p>14 A. Offhand, I can't think of -- couldn't have</p> <p>15 been very much more.</p> <p>16 <b>Q. Okay. Did you review your</b></p> <p>17 <b>interrogatories?</b></p> <p>18 <b>Interrogatories are written questions that</b></p> <p>19 <b>we submitted and were answered by you.</b></p> <p>20 A. Gosh, I'm not sure. I might have.</p> <p>21 <b>Q. I think those -- we have those as</b></p> <p>22 <b>Exhibit 19.</b></p> <p>23 MR. THOMPSON: Brian, can we show those?</p> <p>24 A. It looks familiar.</p> <p>25 MR. THOMPSON: Well, maybe because I'm not</p>	<p>1 you filled out in this application are true and</p> <p>2 accurate and are filled out by you --</p> <p>3 A. Yes.</p> <p>4 <b>Q. -- do you see that?</b></p> <p>5 <b>And my question's a pretty simple one.</b></p> <p>6 <b>There's some various experience, qualifications,</b></p> <p>7 <b>commercial driver's license information, prior</b></p> <p>8 <b>employers on this application. You would have</b></p> <p>9 <b>filled out this application truthfully and</b></p> <p>10 <b>accurately; is that fair?</b></p> <p>11 A. I would believe so.</p> <p>12 <b>Q. And if we're trying to walk back through</b></p> <p>13 <b>your employment history prior to NIM Transportation,</b></p> <p>14 <b>this would be a good source to get some additional</b></p> <p>15 <b>information; fair?</b></p> <p>16 A. I would think so, yes.</p> <p>17 <b>Q. It looks like immediately prior to working</b></p> <p>18 <b>at NIM, you were working at K&amp;B Transportation based</b></p> <p>19 <b>out of Sioux Falls, Iowa; is that fair?</b></p> <p>20 A. That's fair to say.</p> <p>21 <b>Q. And my understanding from reading your</b></p> <p>22 <b>file is the reason you applied to -- to Norfolk or</b></p> <p>23 <b>NIM Transportation is because the job with K&amp;B had</b></p> <p>24 <b>changed somewhat such that you were left out of town</b></p> <p>25 <b>on some days; is that fair?</b></p>
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<p>1 connected. Can we go off the record for a minute?</p> <p>2 THE VIDEOGRAPHER: Going off the record.</p> <p>3 The time now is 2:40 p.m.</p> <p>4 (Discussion off the record.)</p> <p>5 THE VIDEOGRAPHER: We are back on the</p> <p>6 record, 2:45 p.m.</p> <p>7 MR. THOMPSON: Can we pull up -- let's</p> <p>8 see -- page -- on Exhibit 14, page 120.</p> <p>9 <b>Q. (By Mr. Thompson) Mr. Ajello, as part of</b></p> <p>10 <b>your driver qualification file, we were provided</b></p> <p>11 <b>your -- what appears to be your initial application</b></p> <p>12 <b>back in 2001 to Norfolk Iron &amp; Metal, Emporia</b></p> <p>13 <b>Division. Do you recall applying for that position</b></p> <p>14 <b>at that time?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. And the application is approximately -- it</b></p> <p>17 <b>is, let's see here -- four pages, and your signature</b></p> <p>18 <b>appears on page 1 --</b></p> <p>19 MR. THOMPSON: 123, Brian.</p> <p>20 <b>Q. (By Mr. Thompson) And it -- there's</b></p> <p>21 <b>basically, above your signature, "To be read and</b></p> <p>22 <b>signed by the applicant." Do you see that?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. And you make a certification or</b></p> <p>25 <b>attestation there that effectively the matters that</b></p>	<p>1 A. From -- leave Monday and come back on</p> <p>2 Friday, yes.</p> <p>3 <b>Q. And you obviously -- that -- from a</b></p> <p>4 <b>quality of life standpoint, that isn't what you</b></p> <p>5 <b>wanted; fair?</b></p> <p>6 A. Absolutely. That's -- that's correct.</p> <p>7 That's not what I wanted.</p> <p>8 <b>Q. And so you were -- the only reason you</b></p> <p>9 <b>left K&amp;B was because you were looking for a job that</b></p> <p>10 <b>was more conducive to the quality of life that you</b></p> <p>11 <b>were seeking?</b></p> <p>12 A. To the quality of life that I had prior to</p> <p>13 the change in the business structure.</p> <p>14 <b>Q. Okay. And then prior to K&amp;B you worked at</b></p> <p>15 <b>PBX?</b></p> <p>16 A. That's correct also.</p> <p>17 <b>Q. And it looks like you worked there from</b></p> <p>18 <b>'89 to '98; is that fair?</b></p> <p>19 A. That would be fair, because it's -- it was</p> <p>20 the same job, but IBP, which is Iowa Beef</p> <p>21 Processors, PBX is the transportation arm of that</p> <p>22 just like NIM Transportation is to -- to Norfolk</p> <p>23 Iron &amp; Metal, and they decided to get rid of their</p> <p>24 own power and contacted K&amp;B to take over that</p> <p>25 business, that part of the business, and I hired on</p>

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<p style="text-align: right;">Page 17</p> <p>1 with them.</p> <p>2 <b>Q. Okay. And fair to say that, basically</b></p> <p>3 <b>from September of '89 to the present day, you've</b></p> <p>4 <b>been operating as a commercial motor vehicle</b></p> <p>5 <b>operator?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. Lot of miles, I assume, in those years?</b></p> <p>8 A. Not very many really. I was not an</p> <p>9 over-the-road truck driver.</p> <p>10 <b>Q. Do you have over a million miles in your</b></p> <p>11 <b>career?</b></p> <p>12 A. Oh, I'm certain of that.</p> <p>13 <b>Q. And I assume you've seen many, many things</b></p> <p>14 <b>on the road occur; right?</b></p> <p>15 A. Yes, sir.</p> <p>16 <b>Q. Okay. Do you consider yourself an</b></p> <p>17 <b>extremely safe commercial motor vehicle operator?</b></p> <p>18 A. I do.</p> <p>19 <b>Q. Okay. And it looks like, from your file,</b></p> <p>20 <b>that's something that you take pride in; fair?</b></p> <p>21 A. I hope everybody does, yes.</p> <p>22 <b>Q. Let's talk a little bit about the training</b></p> <p>23 <b>that you received as a commercial motor vehicle</b></p> <p>24 <b>operator. Have you ever -- have you ever had Smith</b></p> <p>25 <b>training?</b></p>	<p style="text-align: right;">Page 19</p> <p>1 <b>what methodology and what systems were used at NIM</b></p> <p>2 <b>to provide you training in the realm of commercial</b></p> <p>3 <b>motor vehicle operation?</b></p> <p>4 A. I see. Yes, we had to -- we had to</p> <p>5 certify online with interactive programs for --</p> <p>6 gosh, there were a number of things. Must have been</p> <p>7 seven or eight different things.</p> <p>8 <b>Q. Seven or eight different modules?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. And do you -- was that through the</b></p> <p>11 <b>Department of Transportation?</b></p> <p>12 A. Offhand I cannot remember where it</p> <p>13 originated.</p> <p>14 <b>Q. Was it a system where you sat down at a</b></p> <p>15 <b>computer and kind of moved through various screens</b></p> <p>16 <b>and information, and then had to -- then you were</b></p> <p>17 <b>tested on that?</b></p> <p>18 A. That's correct, yeah. What I remember.</p> <p>19 <b>Q. And then hopefully, if you successfully</b></p> <p>20 <b>completed that module, you got a certificate that</b></p> <p>21 <b>says you successfully completed; fair?</b></p> <p>22 A. That's -- that's correct.</p> <p>23 <b>Q. Can you think of any other information you</b></p> <p>24 <b>received while at NIM in terms of training for --</b></p> <p>25 <b>from a safety standpoint as a commercial motor</b></p>
<p style="text-align: right;">Page 18</p> <p>1 A. Smith training?</p> <p>2 <b>Q. The Smith system?</b></p> <p>3 A. I'm not sure what that is.</p> <p>4 <b>Q. Okay. Have you ever had any training</b></p> <p>5 <b>modules or train -- written materials through</b></p> <p>6 <b>J.J. Keller?</b></p> <p>7 A. Sure.</p> <p>8 <b>Q. What do you recall -- let me ask you</b></p> <p>9 <b>this -- let's kind of go backwards from NIM</b></p> <p>10 <b>Transportation.</b></p> <p>11 <b>Did you receive any training from NIM</b></p> <p>12 <b>Transportation that's directed towards commercial</b></p> <p>13 <b>motor vehicle operators?</b></p> <p>14 A. Towards safety, yes.</p> <p>15 <b>Q. What -- and what training do you recall?</b></p> <p>16 <b>Just generally describe it if you could.</b></p> <p>17 <b>And the reason I'm asking that is</b></p> <p>18 <b>sometimes trucking companies, they may have videos</b></p> <p>19 <b>that they have their drivers watch, sometimes</b></p> <p>20 <b>they'll have their drivers actually log onto</b></p> <p>21 <b>computer modules and walk through a training program</b></p> <p>22 <b>that asks -- then the driver takes a test on those</b></p> <p>23 <b>modules and just check their retention of the</b></p> <p>24 <b>information, that sort of thing.</b></p> <p>25 <b>I'm trying to get an understanding of,</b></p>	<p style="text-align: right;">Page 20</p> <p>1 <b>vehicle operator?</b></p> <p>2 A. I imagine we just go -- a quick overview</p> <p>3 on the basic rules of the law and -- and the dos and</p> <p>4 don'ts as far as what the type of material we were</p> <p>5 hauling. And, of course, I trained on proper way to</p> <p>6 tie equipment -- or the proper use of equipment and</p> <p>7 tying down the material --</p> <p>8 <b>Q. Okay.</b></p> <p>9 <b>(Overlapping speakers.)</b></p> <p>10 A. -- (inaudible.)</p> <p>11 <b>Q. (By Mr. Thompson) Tie -- tie down is</b></p> <p>12 <b>obviously pretty important in the realm of work you</b></p> <p>13 <b>work in?</b></p> <p>14 A. It makes a big difference, yes.</p> <p>15 <b>Q. Do you have any endorsements on your CDL?</b></p> <p>16 A. I used to have them all, but I got rid of</p> <p>17 the hazmat a number years ago.</p> <p>18 <b>Q. I assume with NIM you've never needed a</b></p> <p>19 <b>hazmat endorsement?</b></p> <p>20 A. No.</p> <p>21 <b>Q. Okay. Who's Charlie Cheek?</b></p> <p>22 A. He was, once upon a time, our driver</p> <p>23 supervisor.</p> <p>24 <b>Q. And what types of things would he do?</b></p> <p>25 <b>I don't know what a -- every company's</b></p>

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<p style="text-align: right;">Page 21</p> <p>1 driver supervisor's a little different; so what were</p> <p>2 his responsibilities to the extent you know?</p> <p>3 A. Just let us know what's going on and -- I</p> <p>4 really don't know. Probably watching the logs and</p> <p>5 making sure we're updated on any new policies.</p> <p>6 Q. Do you know what "Aim high in the</p> <p>7 steering" means?</p> <p>8 A. I've never heard that term.</p> <p>9 Q. Okay. How about "Get the big picture"?</p> <p>10 A. I don't know what that pertains to.</p> <p>11 Q. How about "Keep your eyes moving"?</p> <p>12 A. That would just make sense, keeping a --</p> <p>13 surveying what's going on around you.</p> <p>14 Q. And how do you -- what's your practice in</p> <p>15 terms of surveying what's going on around you?</p> <p>16 A. I try to manage my lane and manage what's</p> <p>17 going on in traffic so I can be a defensive driver</p> <p>18 that I am to be ready for any situation.</p> <p>19 Q. Kind of as they say in a lot of driver</p> <p>20 training, "Expect the unexpected"?</p> <p>21 A. Pretty much.</p> <p>22 Q. And I assume over the million-plus miles</p> <p>23 that you've driven, you've seen four-wheelers time</p> <p>24 and time again jump into space that you're managing;</p> <p>25 right?</p>	<p style="text-align: right;">Page 23</p> <p>1 2018, was that truck governed?</p> <p>2 A. Yes.</p> <p>3 Q. And what was it governed at?</p> <p>4 A. They're governed to 70 miles an hour.</p> <p>5 Q. Okay. And there was a time when they were</p> <p>6 governed to 65; right?</p> <p>7 A. I don't know. I don't remember that, no.</p> <p>8 Q. I saw a memorandum in the DQ file that</p> <p>9 seemed to indicate that at one point they were at</p> <p>10 65, and they were moving them to 70, but if you have</p> <p>11 a safety violation, they would take your governor</p> <p>12 back down?</p> <p>13 A. That sounds familiar.</p> <p>14 Q. Does that sound a little familiar?</p> <p>15 A. Yes, that does --</p> <p>16 Q. Have --</p> <p>17 A. -- sound familiar.</p> <p>18 Q. Have -- have you ever been in a situ- --</p> <p>19 Since the governors were set at 70, have</p> <p>20 you ever been in a situation where Mr. Cheek or</p> <p>21 anyone else have said, "Hey, Mr. Ajello, we're going</p> <p>22 to -- we're going to reduce -- we've -- we've caught</p> <p>23 you on some safety violations, we're going to reduce</p> <p>24 you back down to 65"?</p> <p>25 A. I -- I don't recall that.</p>
<p style="text-align: right;">Page 22</p> <p>1 A. That's usually the major cause of</p> <p>2 accidents with commercial vehicles.</p> <p>3 Q. And you understand that as soon as your</p> <p>4 space management becomes compromised when something</p> <p>5 like that happens, you need to move back so that</p> <p>6 your space is, again, in a -- in line with safe</p> <p>7 practice; right?</p> <p>8 A. Do it in a safe manner, yes.</p> <p>9 Q. Okay. And in terms of -- in terms of</p> <p>10 vehicles compromising your -- the space that you are</p> <p>11 managing -- and I think we both know what we're</p> <p>12 talking about there -- you -- you have a distance</p> <p>13 you're trying to maintain between you and the</p> <p>14 vehicle in front of you in your lane; right?</p> <p>15 A. A reasonable safe distance.</p> <p>16 Q. Okay. What is a reasonable safe distance?</p> <p>17 How do you calculate that?</p> <p>18 A. What I've always learned from day one from</p> <p>19 driver's training in high school, they try to</p> <p>20 maintain 10 feet for every 10 miles per hour.</p> <p>21 Q. So if you're going 60 miles an hour, you</p> <p>22 would maintain 60 feet in front of you?</p> <p>23 A. Try to, yes, or more. Hopefully more.</p> <p>24 Q. The truck that you were driving on the day</p> <p>25 of -- of this unfortunate collision on July 16th of</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Okay. In any event, your understanding at</p> <p>2 the time of this collision was that the -- the truck</p> <p>3 that you were driving --</p> <p>4 And let me ask you this: What type of</p> <p>5 vehicle were you driving?</p> <p>6 A. A 2017 Freightliner Conventional.</p> <p>7 Q. And had that been your truck for a while?</p> <p>8 A. Since brand new at that time.</p> <p>9 Q. I'm sorry?</p> <p>10 A. Since brand new at that time.</p> <p>11 Q. All right. So you were pretty familiar</p> <p>12 with that truck?</p> <p>13 A. Yes.</p> <p>14 Q. You'd had that truck at the time for one</p> <p>15 or two years?</p> <p>16 A. At least a year.</p> <p>17 Q. Okay. Back in 2018, how many miles a year</p> <p>18 were you putting on that truck?</p> <p>19 A. Oh, it varies because the routes vary a</p> <p>20 little bit as far as around the city; so it could be</p> <p>21 70 to 80,000.</p> <p>22 Q. Okay. So certainly not putting on the</p> <p>23 kind of miles that a true over-the-road truck driver</p> <p>24 puts on; right?</p> <p>25 A. That's correct. I'm a local driver.</p>

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<p style="text-align: right;">Page 25</p> <p>1 <b>Q. How were your logs kept in July of 2018?</b></p> <p>2 A. I believe we were on the PeopleNet system.</p> <p>3 <b>Q. Okay. And by that time, is it your</b></p> <p>4 <b>understanding that the Federal Motor Carrier Safety</b></p> <p>5 <b>Administration was requiring electronic logs?</b></p> <p>6 A. I'm not sure if that came into effect yet,</p> <p>7 but it possibly could have.</p> <p>8 <b>Q. Whether it did or it didn't, the company</b></p> <p>9 <b>was into electronic logs by then, is that your best</b></p> <p>10 <b>recollection?</b></p> <p>11 A. Yes, quite a few years prior to that.</p> <p>12 <b>Q. Okay. Does -- to your knowledge, does</b></p> <p>13 <b>the -- does NIM Transportation ever counsel drivers</b></p> <p>14 <b>based on PeopleNet data?</b></p> <p>15 A. If there is some violations, I imagine so.</p> <p>16 <b>Q. Okay. Have you ever had an</b></p> <p>17 <b>hour-of-service violation brought to your attention</b></p> <p>18 <b>by the company?</b></p> <p>19 A. I can't -- I can't recall any, but if</p> <p>20 there is, it'd probably be in my driver's file, and</p> <p>21 you'd probably pull up a document, maybe we can go</p> <p>22 through that, and --</p> <p>23 <b>Q. Okay.</b></p> <p>24 A. -- we can walk through it.</p> <p>25 <b>Q. In any event, doing what you did on a</b></p>	<p style="text-align: right;">Page 27</p> <p>1 A. Yes.</p> <p>2 <b>Q. -- of operation by GPS tracking?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. Okay. Do you have any information -- or</b></p> <p>5 <b>have you ever seen the PeopleNet data for the day of</b></p> <p>6 <b>this accident?</b></p> <p>7 A. I have not.</p> <p>8 <b>Q. Okay. You would expect that it -- that it</b></p> <p>9 <b>existed at some point in time; right?</b></p> <p>10 A. I imagine federal law states that all</p> <p>11 companies are required to keep log information for</p> <p>12 six months. I don't think that has changed any.</p> <p>13 <b>Q. Are you aware that, in September of 2018,</b></p> <p>14 <b>we requested that the company maintain and preserve</b></p> <p>15 <b>that log information?</b></p> <p>16 A. I have no knowledge of that.</p> <p>17 <b>Q. Did -- and so no one's ever told you that?</b></p> <p>18 A. No.</p> <p>19 <b>Q. No -- no one within the company; fair?</b></p> <p>20 A. That's fair.</p> <p>21 <b>Q. Did you ever get back into that</b></p> <p>22 <b>Freightliner?</b></p> <p>23 A. Yes. After it was repaired and it came</p> <p>24 back, it was still my assigned vehicle.</p> <p>25 <b>Q. Okay. While it was being repaired, did</b></p>
<p style="text-align: right;">Page 26</p> <p>1 <b>daily basis, it would be kind of hard to get an</b></p> <p>2 <b>hour-of-service violation, wouldn't it?</b></p> <p>3 A. Yeah, unless there was a -- a improper</p> <p>4 logout or something the day before.</p> <p>5 <b>Q. I mean, you -- you weren't, for the most</b></p> <p>6 <b>part, operating in a manner that is more likely to</b></p> <p>7 <b>cause an HOS violation; right?</b></p> <p>8 A. Oh, yes, you're right. You're correct.</p> <p>9 <b>Q. I mean, as a -- as basically a local</b></p> <p>10 <b>operator?</b></p> <p>11 A. That's correct. Yeah, if I work more than</p> <p>12 11, 12 hours a day, that's a pretty long day.</p> <p>13 <b>Q. What's your understanding of how many</b></p> <p>14 <b>hours back in 2018 you could work?</b></p> <p>15 A. Well, 14 hours total, including all</p> <p>16 on-duty and driving, just as it is today.</p> <p>17 <b>Q. And in 2018, do you believe there was an</b></p> <p>18 <b>hour-of-service requirement within those 14 hours</b></p> <p>19 <b>for driving hours?</b></p> <p>20 A. It'd be 11 hours driving.</p> <p>21 <b>Q. Okay. Do you appreciate and understand</b></p> <p>22 <b>that PeopleNet system can -- can track your -- from</b></p> <p>23 <b>a GPS stand -- strike that.</b></p> <p>24 <b>Do you understand that the PeopleNet</b></p> <p>25 <b>system can track your miles per hour --</b></p>	<p style="text-align: right;">Page 28</p> <p>1 <b>you have another vehicle to operate?</b></p> <p>2 A. Yes, of course.</p> <p>3 <b>Q. Okay. How long did you -- were you in</b></p> <p>4 <b>that other vehicle before you got your Freightliner</b></p> <p>5 <b>back?</b></p> <p>6 A. I don't recall the exact length of time,</p> <p>7 but I would imagine two weeks maybe. I believe it</p> <p>8 was transported up to Nebraska to be repaired.</p> <p>9 <b>Q. Is it fair to say that your vehicle was</b></p> <p>10 <b>towed from the scene of this collision?</b></p> <p>11 A. It had to be because my radiator sprung a</p> <p>12 leak.</p> <p>13 <b>Q. Okay. Did you have a dash cam in that</b></p> <p>14 <b>vehicle?</b></p> <p>15 A. No.</p> <p>16 <b>Q. To your knowledge does NIM Transportation</b></p> <p>17 <b>have dash cams in any of the vehicles?</b></p> <p>18 A. They do now, but not at that time.</p> <p>19 <b>Q. Okay. Do you recall approximately when</b></p> <p>20 <b>they put them in?</b></p> <p>21 A. It's been less than a year.</p> <p>22 <b>Q. Okay. And are those forward- and</b></p> <p>23 <b>rear-facing cams?</b></p> <p>24 A. Yes, they are.</p> <p>25 <b>Q. Okay. Do you have the option to turn off</b></p>

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<p style="text-align: right;">Page 29</p> <p>1 the rear-facing camera?</p> <p>2 A. Absolutely not.</p> <p>3 Q. You would be interested to know that</p> <p>4 Warner Transportation gives their drivers that</p> <p>5 option.</p> <p>6 A. I have no idea, but I would never want to</p> <p>7 work for Warner.</p> <p>8 Q. Gotcha. So with -- with respect to that</p> <p>9 dash cam, in terms of how it operates now, it's</p> <p>10 obviously recording you and it's recording the road</p> <p>11 in front of you?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. But on July 16th of 2018, the</p> <p>14 vehicle you were operating had no such surveillance</p> <p>15 on it; right?</p> <p>16 A. Fleet-wide, there was no such things.</p> <p>17 Q. How many units does NIM Transportation</p> <p>18 operate?</p> <p>19 A. I don't really know how many they have,</p> <p>20 but I believe just in the Emporia division there's</p> <p>21 32.</p> <p>22 Q. Okay.</p> <p>23 A. I would guess.</p> <p>24 Q. And we won't hold you to a specific</p> <p>25 number, I'm just trying to get an estimate.</p>	<p style="text-align: right;">Page 31</p> <p>1 for correcting me. Anytime you need to do that,</p> <p>2 feel free, just jump in.</p> <p>3 MR. LESTER: If you want to ask him a</p> <p>4 bunch of questions for 2016, that's fine with me, I</p> <p>5 just think we might have to rework some of it later.</p> <p>6 MR. THOMPSON: Right. I gotcha.</p> <p>7 Q. (By Mr. Thompson) In -- in July of</p> <p>8 2018 -- and I can't remember now if I asked --</p> <p>9 In July of 2018 you didn't have any video</p> <p>10 surveillance on the vehicle; right?</p> <p>11 A. That's correct.</p> <p>12 Q. I can't remember if I used "2016" for that</p> <p>13 question too, so I just want to make sure we're all</p> <p>14 on the same page.</p> <p>15 A. Yes.</p> <p>16 Q. In any event, let's talk about what was</p> <p>17 your normal route in July of 2018.</p> <p>18 A. As it is today, I'm the -- the city route</p> <p>19 guy. I have the -- the shortest route in the whole</p> <p>20 industry.</p> <p>21 Q. Is that -- does that come with seniority?</p> <p>22 A. Well, I hope so, but it probably comes</p> <p>23 with the experience I have --</p> <p>24 Q. Okay.</p> <p>25 A. -- with the city, since I've been</p>
<p style="text-align: right;">Page 30</p> <p>1 A. Thank you.</p> <p>2 Q. And are all -- to your -- again, to your</p> <p>3 understanding, are all of those approximately --</p> <p>4 maybe more, maybe less -- 32 units operated on a</p> <p>5 local driving basis?</p> <p>6 A. Some of them are used for a little longer,</p> <p>7 some of them are out overnight --</p> <p>8 Q. Okay.</p> <p>9 A. -- occasionally. And some are sent out of</p> <p>10 town occasionally --</p> <p>11 Q. Okay.</p> <p>12 A. -- as far as to a different location,</p> <p>13 whether it's Norfolk, Nebraska, or Greeley,</p> <p>14 Colorado, or -- or over in Iowa.</p> <p>15 Q. Generally, would they be locally driven?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Would your days always start out</p> <p>18 out of Emporia, Kansas?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Were you -- were you working a</p> <p>21 particular route on a regular basis back in 2006 --</p> <p>22 July of 2016?</p> <p>23 A. Yes, a mechanic.</p> <p>24 MR. LESTER: I'm sorry, 2018?</p> <p>25 MR. THOMPSON: 2018, I'm sorry. Thanks</p>	<p style="text-align: right;">Page 32</p> <p>1 delivering the Kansas City area for well over a</p> <p>2 decade.</p> <p>3 Q. Okay. Do you folks bid for routes?</p> <p>4 A. No.</p> <p>5 Q. Okay. So has this been your route for</p> <p>6 approximately 10 years?</p> <p>7 A. At least.</p> <p>8 Q. Okay. Tell me a little bit about where</p> <p>9 your customers are on that route. And I know it</p> <p>10 probably depends day to day, but who are some of</p> <p>11 your customers?</p> <p>12 A. One I see pretty much every day would be,</p> <p>13 like, Kansas City Steel Supply on the Missouri side.</p> <p>14 And another one I'm regularly going to is -- this is</p> <p>15 terrible. I feel like I'm under pressure, but --</p> <p>16 Q. We won't tell them if you can't remember</p> <p>17 their name.</p> <p>18 A. KCI and Nail by the Foot, these are all</p> <p>19 relatively regular -- very regular customers.</p> <p>20 Q. In terms of -- if we could go to</p> <p>21 Exhibit 16. One of the things produced was the</p> <p>22 "Accident Investigation" file. Is that -- have you</p> <p>23 reviewed that file?</p> <p>24 A. I don't think so.</p> <p>25 Q. Okay. Anytime I show you a document,</p>

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<p style="text-align: right;">Page 33</p> <p>1 please take your time. Brian will help you go</p> <p>2 through at your pace because you're looking at it on</p> <p>3 a screen. I want to make sure you have the time you</p> <p>4 need to digest it and look it over so you're</p> <p>5 comfortable answering questions about it. All</p> <p>6 right?</p> <p>7 A. Okay. Thank you.</p> <p>8 Q. So there's a document in here titled</p> <p>9 "Preliminary Report of Driver Accident." And if we</p> <p>10 go to the -- first let me ask you -- let's flip</p> <p>11 through the whole document.</p> <p>12 And it appears to be two pages. Are you</p> <p>13 familiar with this form or this document?</p> <p>14 A. I am as of today.</p> <p>15 Q. Okay. Is this a document you reviewed in</p> <p>16 preparation for your testimony today?</p> <p>17 A. I think I just saw this prior to coming in</p> <p>18 here.</p> <p>19 Q. Okay. Did you have -- do you recall</p> <p>20 having any loads still on your -- your vehicle at</p> <p>21 the time of this collision?</p> <p>22 A. I believe I had a little bit of steel</p> <p>23 left. I think I had one or two stops left on my</p> <p>24 trailer.</p> <p>25 Q. And what type of trailer were you</p>	<p style="text-align: right;">Page 35</p> <p>1 A. I did not fill this form out.</p> <p>2 Q. Fair. Very fair.</p> <p>3 It says "Stops made: Six." I assume the</p> <p>4 number of stops on your city route in Kansas City</p> <p>5 would fluctuate from day to day?</p> <p>6 A. Sure. It could be two, or it could be</p> <p>7 eight.</p> <p>8 Q. Okay. And it says "Stops remaining:</p> <p>9 Zero"?</p> <p>10 A. I see that.</p> <p>11 Q. Okay. In any event, your belief is you</p> <p>12 still had steel on the truck and at least, would it</p> <p>13 be fair, one customer left to deliver to?</p> <p>14 A. That would be fair to say. That's just</p> <p>15 what I recollect.</p> <p>16 Q. Okay. And we won't hold it against you if</p> <p>17 some other record proves that to be wrong.</p> <p>18 Your recollection, as you sit here today,</p> <p>19 is that you had some steel left on the vehicle, and</p> <p>20 you were -- you had perhaps one stop left to make --</p> <p>21 A. That's my --</p> <p>22 Q. -- is that your best recollection?</p> <p>23 A. Yes, that's what I remember.</p> <p>24 Q. Do you recall your last stop before this</p> <p>25 collision?</p>
<p style="text-align: right;">Page 34</p> <p>1 operating that day?</p> <p>2 A. A flatbed.</p> <p>3 Q. Okay.</p> <p>4 A. That's all we have are flatbed trailers.</p> <p>5 Q. And this isn't a "gotcha" moment, or</p> <p>6 anything like that, but when we look at this form on</p> <p>7 page 1 of the form, and we go down to "Load and</p> <p>8 Trip," and I just may be interpreting this</p> <p>9 incorrectly. Okay? It says that -- it indicates</p> <p>10 you're empty at this point in time.</p> <p>11 A. I see that, yes.</p> <p>12 THE VIDEOGRAPHER: I'm sorry, James, what</p> <p>13 page are you on?</p> <p>14 MR. THOMPSON: I'm on page 1 towards the</p> <p>15 bottom of the page. Mr. Ajello, I think, is on</p> <p>16 board with me under "Load and Trip," almost --</p> <p>17 THE VIDEOGRAPHER: I gotcha.</p> <p>18 MR. THOMPSON: If you want to pull that up</p> <p>19 a little more for him.</p> <p>20 Q. (By Mr. Thompson) "Load and trip." It</p> <p>21 indicates, anyway, on this form that you're empty.</p> <p>22 Is it possible you were empty?</p> <p>23 A. I don't believe that's correct. I did not</p> <p>24 fill --</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. No, not a specific customer, no.</p> <p>2 Q. Okay. Do you recall any of the customers</p> <p>3 that day?</p> <p>4 A. I can't say that I do.</p> <p>5 Q. Okay. What would be the best record of</p> <p>6 the customers you had seen that day?</p> <p>7 Are there -- are there bills of lading?</p> <p>8 Sales tickets? Things that a customer might sign</p> <p>9 either electronically or paper-wise? Something that</p> <p>10 would help us and help you put together your route</p> <p>11 that day.</p> <p>12 A. There should be a paper trail of the</p> <p>13 invoices of the day, which the customer would sign,</p> <p>14 and I'd give them one copy.</p> <p>15 Q. And would those be both date and time</p> <p>16 stamped?</p> <p>17 A. Absolute -- or not time but date stamped.</p> <p>18 Q. Okay. But of course the GPS on the</p> <p>19 PeopleNet would provide when you were at a</p> <p>20 particular location; right?</p> <p>21 A. That's correct. Yes, it would be -- all</p> <p>22 the logging information would be on there.</p> <p>23 Q. And I've seen many, many PeopleNet</p> <p>24 printouts, and they actually -- you can tell when a</p> <p>25 truck stops because obviously the GPS coordinates</p>

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<p>1 remain static for a period of time, and then the</p> <p>2 truck starts on again. Are you aware of that</p> <p>3 capability?</p> <p>4 A. I've never seen a readout, but I'm sure it</p> <p>5 knows when I start the truck, turn the truck off,</p> <p>6 idle time. I'm sure it has all the parameters in</p> <p>7 there.</p> <p>8 Q. In terms of the PeopleNet module, do you</p> <p>9 have a module in your cab?</p> <p>10 A. At that time, I believe so. It was on the</p> <p>11 back -- back wall of the cab.</p> <p>12 Q. Okay. Did you -- how would you receive</p> <p>13 any dispatch information during the day?</p> <p>14 A. Well, that was several years ago. I</p> <p>15 imagine it was an email capability.</p> <p>16 Q. Okay. And how would that come in to the</p> <p>17 cab?</p> <p>18 A. I believe just give us a prompt.</p> <p>19 Q. Okay. And you'd have a screen?</p> <p>20 A. Yes, there's a screen.</p> <p>21 Q. And do you know what system provided you</p> <p>22 that information?</p> <p>23 A. I can't offhand, no.</p> <p>24 Q. That was separate from PeopleNet?</p> <p>25 A. I'm not sure. I do not know.</p>	<p>1 A. But I really don't know.</p> <p>2 Q. Do you remember talking to Charlie that</p> <p>3 day about the incident, about the accident?</p> <p>4 A. I'm sure I met with him, but I don't</p> <p>5 recall what was exactly talked about.</p> <p>6 Q. Take a moment and read that description if</p> <p>7 you would, because I'm going to ask you if it's</p> <p>8 accurate or if there's anything you'd like to add to</p> <p>9 it for it to be more accurate.</p> <p>10 A. It's pretty much just a general overview</p> <p>11 of what did happen. There's a lot of -- lot of</p> <p>12 details not on this.</p> <p>13 Q. Okay. Is it incorrect in any way?</p> <p>14 A. As an overview, that's -- that's correct.</p> <p>15 Q. I'm sorry?</p> <p>16 A. As an overview of what happened, that is</p> <p>17 correct.</p> <p>18 Q. Okay. Now, this says "Jim was in the very</p> <p>19 left lane of traffic." Is that the lane you recall</p> <p>20 traveling in?</p> <p>21 A. Absolutely.</p> <p>22 Q. How long had you been in that lane?</p> <p>23 A. Prior to the incident, probably just over</p> <p>24 a mile.</p> <p>25 Q. When -- do you recall when you got on</p>
Page 38	Page 40
<p>1 Q. Okay. Currently, what system is available</p> <p>2 for you to -- for them to communicate -- dispatch to</p> <p>3 communicate with you during your day?</p> <p>4 A. Today, right now, the system we have is a</p> <p>5 Samsara. It's a tablet in -- at-based.</p> <p>6 Q. Okay. Is that an at-base and a tablet</p> <p>7 that you also use for customers when they sign for</p> <p>8 their deliveries?</p> <p>9 A. Not at this time.</p> <p>10 Q. Okay.</p> <p>11 A. That hasn't been turned on yet as far as I</p> <p>12 know.</p> <p>13 Q. Okay.</p> <p>14 A. I think that's something they're looking</p> <p>15 to in the future but has not come around yet.</p> <p>16 Q. If you look at the next -- the second page</p> <p>17 of Exhibit 16, there's a description of the</p> <p>18 accident, or "Accident Description and Damage." Do</p> <p>19 you see that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. And just by your knowledge, do you know</p> <p>22 who would have filled this form out?</p> <p>23 A. I would imagine it would be Charlie Cheek</p> <p>24 at that time was the driver supervisor.</p> <p>25 Q. Okay.</p>	<p>1 I-70?</p> <p>2 A. I don't remember exactly, but knowing my</p> <p>3 route, I would say it was either off of Blue Ridge</p> <p>4 Cutoff or off of 435 and came westbound on I-70.</p> <p>5 Q. Okay. Out by the stadium?</p> <p>6 A. Yes.</p> <p>7 Q. Generally in that general area?</p> <p>8 A. That's fair to say, yes.</p> <p>9 Q. Okay. So from that point until the</p> <p>10 collision site, had you been in the left lane?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 A. Oh, I'm sorry, till -- yes, I was -- for</p> <p>14 the mile prior to coming to the loop.</p> <p>15 Q. And -- and I -- my question's just a</p> <p>16 little different; so I want to make sure we're not</p> <p>17 kind of confusing it.</p> <p>18 A. It was just a little confusing because my</p> <p>19 mind was somewhere else.</p> <p>20 Q. No -- no problem, always take your time.</p> <p>21 What I'm trying to find out -- I kind of</p> <p>22 asked you two things; so I'm going to just start</p> <p>23 from scratch.</p> <p>24 A. Thank you.</p> <p>25 Q. From the time you got on at either 435 or</p>

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<p style="text-align: right;">Page 41</p> <p>1 Blue Ridge, somewhere in the vicinity of the</p> <p>2 stadium, till the point where the collision</p> <p>3 occurred, were you always in the left-hand lane?</p> <p>4 A. I was not always in the left-hand lane.</p> <p>5 Q. Okay. You know there's the Jackson curve</p> <p>6 there, are you familiar with that?</p> <p>7 A. Oh, yes.</p> <p>8 Q. And the Benton curve?</p> <p>9 A. Of course.</p> <p>10 Q. Okay. Using those as -- let's talk about</p> <p>11 the Benton curve first.</p> <p>12 A. Okay.</p> <p>13 Q. Were you already in the left-hand lane</p> <p>14 when you went through the Benton curve?</p> <p>15 A. Upon approach, I was not.</p> <p>16 Q. Okay.</p> <p>17 A. I was in the middle lane.</p> <p>18 Q. Okay. As you came out of the Benton</p> <p>19 curve, did you get into the left-hand lane?</p> <p>20 A. Yes. The way the Benton curve is set up,</p> <p>21 initially it's a 55-mile-an-hour zone. From the --</p> <p>22 from the Jackson curve to there it's 55, and it's</p> <p>23 reduced with a suggested speed limit of 45. And as</p> <p>24 you enter the curve, it's a hard -- hard part of the</p> <p>25 curve, then it starts gradually reducing the radius.</p>	<p style="text-align: right;">Page 43</p> <p>1 the Jackson curve you're in the middle lane?</p> <p>2 A. Yes.</p> <p>3 Q. You get to the Benton curve, its speed --</p> <p>4 suggested speed reduction to 45 at that point?</p> <p>5 A. Yes.</p> <p>6 Q. And then it -- as you come out of the</p> <p>7 Benton curve, the speed limit kicks up for a period</p> <p>8 to 55?</p> <p>9 A. As you come through the -- the initial,</p> <p>10 sharper part of the Benton curve, yes.</p> <p>11 Q. Okay.</p> <p>12 A. But it curves in -- with a reduced radius.</p> <p>13 Q. And as you came out of the Benton curve,</p> <p>14 you passed the sign lifting the commercial motor</p> <p>15 vehicle restriction, and at that point your practice</p> <p>16 always was moving into the left-hand lane?</p> <p>17 A. Yes, if it is safe to do so, absolutely.</p> <p>18 Q. Sure. And why would you do that?</p> <p>19 A. Because once I enter the downtown loop, I</p> <p>20 need to be in that lane, because I'll need to move</p> <p>21 over one more lane to proceed on -- on the -- on the</p> <p>22 south loop there to go westbound on I-70.</p> <p>23 Q. Okay. Do you believe it was your</p> <p>24 intention that day to proceed westbound on I-70?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 42</p> <p>1 And at that time it comes back to 55, and the lane</p> <p>2 restriction for commercial trucks, and the left lane</p> <p>3 is ended.</p> <p>4 And prior to that, I always watch the lane</p> <p>5 next to me, the left lane, just to make sure that I</p> <p>6 have clear access and a safe access to that lane</p> <p>7 when I'm coming out of the curve.</p> <p>8 Q. Okay. So your belief is you wouldn't have</p> <p>9 gotten into the left-hand lane until you were coming</p> <p>10 out of the Benton curve because there's a commercial</p> <p>11 motor vehicle restriction on the left-hand lane up</p> <p>12 to that point; right?</p> <p>13 A. And I would have not merged till that</p> <p>14 sign. And that's where I always merge is right at</p> <p>15 that sign.</p> <p>16 Q. Okay. So by the time you were into the</p> <p>17 Jackson curve, you were in the left-hand lane; is</p> <p>18 that right?</p> <p>19 A. I guess that -- well, is Jackson curve</p> <p>20 east or west of the Benton curve?</p> <p>21 Q. Jackson curve is -- you're right -- west</p> <p>22 of -- by the time you were -- the Benton curve is</p> <p>23 the second curve coming out of the stadium; right?</p> <p>24 A. That -- that's my recollection, yes.</p> <p>25 Q. Okay. So the Jackson curve -- all through</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. To go to Kansas City, Kansas?</p> <p>2 A. I could be either Kansas City, Kansas, off</p> <p>3 of 635 -- I thought about this a few times -- and it</p> <p>4 was either that or going down to the West Bottoms.</p> <p>5 Q. Okay. And as you sit here today, you</p> <p>6 can't tell us one way or the other where you were</p> <p>7 headed --</p> <p>8 A. No.</p> <p>9 Q. -- right?</p> <p>10 A. That's correct.</p> <p>11 Q. If you were headed home, you also would</p> <p>12 have been proceeding in the same manner; right? You</p> <p>13 would have been taking 35 south?</p> <p>14 A. That particular day, if I was coming off</p> <p>15 of where I thought I was coming back on from, I</p> <p>16 would have taken 435 south to Johnson County. I</p> <p>17 would have not entered downtown.</p> <p>18 Q. Okay. I think I understand what you're</p> <p>19 saying. You believe you got on around 435 or Blue</p> <p>20 Ridge, but even if it was Blue Ridge, you were in</p> <p>21 the area of 435; so that if you were proceeding home</p> <p>22 at that point, back down to Emporia, you -- you</p> <p>23 would have transitioned onto 435 southbound around</p> <p>24 the southeast corner of the city and hit 35</p> <p>25 eventually west of -- west of Johnson County; right?</p>

11 (Pages 41 to 44)

<p style="text-align: right;">Page 45</p> <p>1 A. In the southern Johnson County, yes. On</p> <p>2 that particular day, I did not pull double trailers;</p> <p>3 so there would be no reason to go westbound through</p> <p>4 downtown if I was empty.</p> <p>5 <b>Q. Okay. Some days you would pull a double?</b></p> <p>6 A. Most days.</p> <p>7 <b>Q. Okay.</b></p> <p>8 A. That is my primary job.</p> <p>9 <b>Q. Okay.</b></p> <p>10 A. And the only time that I do not pull</p> <p>11 doubles is if the person that I pulled the</p> <p>12 trailer -- the other trailer to is off for one</p> <p>13 reason or another.</p> <p>14 <b>Q. What do you mean the person -- the other</b></p> <p>15 <b>person you pull the trailer to?</b></p> <p>16 A. I pull two trailers up on the turnpike. I</p> <p>17 leave one loaded trailer at a staging area just west</p> <p>18 of downtown on the Kansas side for him to pick up.</p> <p>19 And when we're all done, his empty from the previous</p> <p>20 trip is there that I hook back up and take back to</p> <p>21 Emporia on the turnpike.</p> <p>22 <b>Q. So let me see if I -- I can understand</b></p> <p>23 <b>this. I think I'm -- I'm learning.</b></p> <p>24 <b>So your normal day is you pull a double up</b></p> <p>25 <b>to a staging area west of Kansas City, Missouri, in</b></p>	<p style="text-align: right;">Page 47</p> <p>1 A. Two 50-foot trailers and --</p> <p>2 <b>Q. I'm sorry.</b></p> <p>3 A. -- and the -- and the converter between</p> <p>4 them, yes.</p> <p>5 <b>Q. And the converter between them. Sorry. I</b></p> <p>6 <b>don't mean -- I was getting ahead -- I was making</b></p> <p>7 <b>you -- you out like you're taking a freight train</b></p> <p>8 <b>down the road.</b></p> <p>9 A. Sounds like Australia.</p> <p>10 <b>Q. Right, it is like.</b></p> <p>11 <b>And explain to me again the reason --</b></p> <p>12 <b>You -- you don't believe you brought a</b></p> <p>13 <b>double up that day?</b></p> <p>14 A. That's correct.</p> <p>15 <b>Q. Would you still have had a double to take</b></p> <p>16 <b>back that day?</b></p> <p>17 A. No.</p> <p>18 <b>Q. Okay. If you didn't bring up a double,</b></p> <p>19 <b>would it always be the fact that you wouldn't take a</b></p> <p>20 <b>double back?</b></p> <p>21 A. That's correct, because I wouldn't have</p> <p>22 the converter.</p> <p>23 <b>Q. Okay. There were no converters at the</b></p> <p>24 <b>staging area?</b></p> <p>25 A. We don't leave that equipment there, no.</p>
<p style="text-align: right;">Page 46</p> <p>1 <b>Kansas, and you drop one of those trailers for a</b></p> <p>2 <b>local driver here to pick up, make deliveries, and</b></p> <p>3 <b>go on his way.</b></p> <p>4 <b>That local driver would have an empty from</b></p> <p>5 <b>the day before that they would leave at the staging</b></p> <p>6 <b>area. And when you got done with your deliveries</b></p> <p>7 <b>and are heading back to Emporia, you'd pick up that</b></p> <p>8 <b>double, and you'd head back home?</b></p> <p>9 A. That's correct.</p> <p>10 <b>Q. Okay. And at the time of this accident</b></p> <p>11 <b>you only had one trailer on; right?</b></p> <p>12 A. That is correct.</p> <p>13 <b>Q. Okay. How long -- what's the length of</b></p> <p>14 <b>the trailer you had on your truck that day at the</b></p> <p>15 <b>time of the collision?</b></p> <p>16 A. The trailers I pull are 50 feet long.</p> <p>17 <b>Q. Okay. So when you do a double, you're --</b></p> <p>18 <b>you didn't have a double that day?</b></p> <p>19 A. I would never pull one in the city</p> <p>20 anyways; but, yes, I did not pull doubles that day.</p> <p>21 <b>Q. When you pull doubles, how long are the</b></p> <p>22 <b>doubles?</b></p> <p>23 A. Just in excess of 120 feet.</p> <p>24 <b>Q. Okay. Basically you're pulling two</b></p> <p>25 <b>100-foot trailers and then the hitch between them?</b></p>	<p style="text-align: right;">Page 48</p> <p>1 <b>Q. Okay.</b></p> <p>2 A. Except for in between when I get there and</p> <p>3 go back home in the afternoon.</p> <p>4 <b>Q. Gotcha.</b></p> <p>5 A. That's the only time there's a converter</p> <p>6 there.</p> <p>7 <b>Q. Is there a -- a customer that you think</b></p> <p>8 <b>you would have been going to see at the time of the</b></p> <p>9 <b>collision? Is there a customer that makes sense?</b></p> <p>10 A. Well, the only ones that would make sense</p> <p>11 would -- it would not have been in the Fairfax</p> <p>12 District because I would have taken the -- 70 on the</p> <p>13 north side to go to Fairfax; so I'm assuming that</p> <p>14 would be either in the West Bottoms or Metro Meadows</p> <p>15 on Metropolitan Avenue. That's off of 635. That</p> <p>16 would be my best guess.</p> <p>17 <b>Q. How long were you at the accident scene</b></p> <p>18 <b>after the collision?</b></p> <p>19 A. Hour and 45 minutes, maybe closer to two</p> <p>20 hours.</p> <p>21 <b>Q. Was Mr. Stoneman's truck removed prior to</b></p> <p>22 <b>you leaving?</b></p> <p>23 A. No.</p> <p>24 <b>Q. Was his truck still there when you left?</b></p> <p>25 A. Yes.</p>

12 (Pages 45 to 48)

<p style="text-align: right;">Page 49</p> <p>1 <b>Q. Okay. Was your tractor and trailer towed?</b></p> <p>2 A. It had to be, yes. Can't leave the</p> <p>3 equipment on the side of the road.</p> <p>4 <b>Q. Right. My question was -- sometimes</b></p> <p>5 <b>another tractor will come and pull the trailer --</b></p> <p>6 A. I see.</p> <p>7 <b>Q. -- so that -- so that the customer can get</b></p> <p>8 <b>its product. And I'm trying to find -- I should</b></p> <p>9 <b>have just asked you that.</b></p> <p>10 <b>Did -- did anyone else come and get that</b></p> <p>11 <b>trailer to take the product to the customer?</b></p> <p>12 A. I did. I -- they -- I was towed --</p> <p>13 eventually the tow truck showed up, and they towed</p> <p>14 me over on the Kansas side to their tow lot, and I</p> <p>15 waited there till another tow truck came up and</p> <p>16 brought a replacement tractor.</p> <p>17 <b>Q. Okay. So a replacement tractor was towed</b></p> <p>18 <b>up from Emporia?</b></p> <p>19 A. Yes, sir.</p> <p>20 <b>Q. Okay. That probably took a little bit of</b></p> <p>21 <b>time.</b></p> <p>22 A. A little bit of time, sir.</p> <p>23 <b>Q. Did you have any discussions with</b></p> <p>24 <b>Mr. Stoneman at the -- at the accident location?</b></p> <p>25 A. Nothing in depth, no.</p>	<p style="text-align: right;">Page 51</p> <p>1 truck to leave, he was still underneath his</p> <p>2 vehicle --</p> <p>3 <b>Q. Okay.</b></p> <p>4 A. -- with the -- trying to secure that</p> <p>5 taillight bar.</p> <p>6 <b>Q. Do you recall seeing anyone else from his</b></p> <p>7 <b>company -- anyone else from his company arriving at</b></p> <p>8 <b>the scene?</b></p> <p>9 A. There was nobody else there. That's what</p> <p>10 I was wondering why they couldn't drive 20 minutes</p> <p>11 to come help the guy out.</p> <p>12 <b>Q. Okay. So in terms of how long he was</b></p> <p>13 <b>under there, you think he was under there for 45</b></p> <p>14 <b>minutes?</b></p> <p>15 A. I'm guessing that. That would be my</p> <p>16 estimate.</p> <p>17 <b>Q. Okay. Did you see specifically anything</b></p> <p>18 <b>he was doing, anything he was trying to maneuver?</b></p> <p>19 A. Yeah, he was wrestling around with a -- a</p> <p>20 metal light bar, which was just some lighter pieces</p> <p>21 of steel fabricated and bolted to the back of his</p> <p>22 frame that his taillights were mounted on. And he</p> <p>23 had a -- I don't know how long of a nylon strap,</p> <p>24 maybe 10, 12 feet long, it was probably a 2-inch</p> <p>25 strap I would guess. And he had it wound up around</p>
<p style="text-align: right;">Page 50</p> <p>1 <b>Q. Okay. Do you recall anything the two of</b></p> <p>2 <b>you talked about?</b></p> <p>3 A. Just we made sure -- we both kept asking</p> <p>4 each other that we -- if we were okay, and that's</p> <p>5 all that mattered.</p> <p>6 <b>Q. Okay. And what did -- what do you recall</b></p> <p>7 <b>Mr. Stoneman telling you?</b></p> <p>8 A. That he was fine.</p> <p>9 <b>Q. Okay. And did he seem fine to you?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. Did you witness any activity by</b></p> <p>12 <b>Mr. Stoneman after the accident, after the</b></p> <p>13 <b>collision?</b></p> <p>14 A. Yes, I observed him for quite some time</p> <p>15 while I was waiting on the tow truck.</p> <p>16 <b>Q. Okay. And what did you observe?</b></p> <p>17 A. He was underneath the back of his truck</p> <p>18 trying to reattach a -- the -- the light bar that</p> <p>19 his taillights are attached to with a nylon strap.</p> <p>20 <b>Q. How long after the accident do you recall</b></p> <p>21 <b>him being under his truck doing that?</b></p> <p>22 A. Had been at least -- he -- he was probably</p> <p>23 under there for probably 45 minutes from the time</p> <p>24 that I first observed him. The tow truck showed up,</p> <p>25 we hooked it all up. As I climbed into the tow</p>	<p style="text-align: right;">Page 52</p> <p>1 up there and trying to maneuver it into place.</p> <p>2 <b>Q. Did you ever see him come back out from</b></p> <p>3 <b>under the truck?</b></p> <p>4 A. No.</p> <p>5 <b>Q. Okay. So once he headed underneath the</b></p> <p>6 <b>truck, you were able to see him trying to remove --</b></p> <p>7 <b>or trying to maneuver this lighter piece of metal</b></p> <p>8 <b>light bar using a -- a nylon strap, but you never</b></p> <p>9 <b>saw him kind of crawl back out and get up and do</b></p> <p>10 <b>anything?</b></p> <p>11 A. No. But I didn't sit there and observe</p> <p>12 him for every second, but every time I looked, he</p> <p>13 was still under there.</p> <p>14 <b>Q. Okay. Obviously, like you just said, you</b></p> <p>15 <b>weren't looking at him every moment?</b></p> <p>16 A. That's correct.</p> <p>17 <b>Q. Okay. But the best you can recall is he</b></p> <p>18 <b>was in underneath there trying to reattach the light</b></p> <p>19 <b>bar for about -- at least for the 45 minutes from</b></p> <p>20 <b>the time you first saw him underneath there until</b></p> <p>21 <b>you were leaving in the tow truck?</b></p> <p>22 A. That's what I recollect, yes.</p> <p>23 <b>Q. Okay. And were you in your cab the entire</b></p> <p>24 <b>time you were observing him?</b></p> <p>25 A. Yes, I was.</p>

13 (Pages 49 to 52)

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<p style="text-align: right;">Page 53</p> <p>1 <b>Q. Okay. Now, you had a camera with you that</b>  2 <b>day?</b>  3 A. There was a -- a digital disposable --  4 disposable digital camera that came with the  5 accident kit at that time, and -- so I did have one,  6 yes.  7 <b>Q. Did you take any pictures?</b>  8 A. I took pictures, yes.  9 <b>Q. And did you take any pictures of -- or</b>  10 <b>what do you recall taking pictures of?</b>  11 A. Just the general scene and the vehicles.  12 <b>Q. Okay. Did you take any pictures of -- for</b>  13 <b>the 45 minutes that you observed Mr. Stoneman</b>  14 <b>underneath his truck?</b>  15 A. No.  16 <b>Q. Okay. Why not?</b>  17 A. I didn't feel any need to.  18 <b>Q. Okay. Didn't think there was really any</b>  19 <b>significance to it?</b>  20 A. No, because there -- it was a low-speed  21 incident.  22 <b>Q. Okay. How fast do you think you were</b>  23 <b>going when you hit him?</b>  24 A. Gosh, that's a good question. If I was to  25 guess, probably 15, 20 miles an hour. Probably a --</p>	<p style="text-align: right;">Page 55</p> <p>1 A. Oh, I'm sure.  2 <b>Q. -- where you were headed?</b>  3 A. Yes, I'm sure.  4 <b>Q. If we had asked you where you had come</b>  5 <b>from immediately before the accident, you could have</b>  6 <b>told us; right?</b>  7 A. I would imagine so.  8 <b>Q. If we were -- if we could time travel back</b>  9 <b>there and jump up on your cab and say, "Mr. Ajello,</b>  10 <b>we're here to investigate the accident, where was</b>  11 <b>your last stop?" you'd be able to tell us; right?</b>  12 A. I would think so.  13 <b>Q. "And, Mr. Ajello, where were you going?"</b>  14 <b>You'd be able to tell us that as well; right?</b>  15 A. I would hope so.  16 <b>Q. Right. And my point is we're now three</b>  17 <b>years out; right?</b>  18 A. That's correct.  19 <b>Q. But the description you gave at the time</b>  20 <b>of this accident was that he was stopped; correct?</b>  21 A. That's what is written in the report.  22 <b>Q. And you don't -- you don't -- you wouldn't</b>  23 <b>have intentionally misstated anything back when you</b>  24 <b>provided that information, would you?</b>  25 A. I wouldn't intentionally, but I might have</p>
<p style="text-align: right;">Page 54</p> <p>1 a 5-mile-an-hour impact is what I would have  2 guessed.  3 <b>Q. So you think the impact on your vehicle</b>  4 <b>was approximately -- at the time of impact, you were</b>  5 <b>going about 5 miles an hour?</b>  6 A. I was going probably a 5-mile-an-hour  7 differential speed.  8 <b>Q. Oh, differential with his speed?</b>  9 A. Yes.  10 <b>Q. Was he still moving at the time of the</b>  11 <b>accident?</b>  12 A. I think he was either still moving or just  13 close to a stop.  14 <b>Q. Now, in some of your descriptions of this,</b>  15 <b>you've indicated that he was stopped.</b>  16 A. I think that's probably what I wrote down  17 on the report.  18 <b>Q. Right. And that was right at the time of</b>  19 <b>the incident; right?</b>  20 A. It was pretty nerve-racking moment.  21 <b>Q. Okay. But you would agree with me that</b>  22 <b>your -- some things, for instance, where you were --</b>  23 <b>If we had asked you right after the</b>  24 <b>accident where you were headed that day, I assume</b>  25 <b>you could have told us --</b></p>	<p style="text-align: right;">Page 56</p> <p>1 hastily just wrote that down to fill the report out.  2 <b>Q. Was there a reason you had to hastily fill</b>  3 <b>the report out?</b>  4 A. It was pretty nerve-racking.  5 <b>Q. Okay. Why was it nerve-racking?</b>  6 A. It was an accident.  7 <b>Q. Sure. You're -- you're a very experienced</b>  8 <b>commercial motor vehicle operator; right?</b>  9 A. I would like to think so.  10 <b>Q. And your understanding was no one was hurt</b>  11 <b>in the accident; right?</b>  12 A. That's correct.  13 <b>Q. And you were sitting there waiting for a</b>  14 <b>tow truck to come; right?</b>  15 A. Yes.  16 <b>Q. And you couldn't speed up the tow truck</b>  17 <b>any more than whatever time it took them; right?</b>  18 A. I have no control over that.  19 <b>Q. That's the point. Out of your control;</b>  20 <b>right?</b>  21 A. I do not make the call, and I don't know  22 what the -- how busy they were; so I was never  23 informed on how long it was going to take.  24 <b>Q. Okay. Are you -- is there any requirement</b>  25 <b>that you fill out your accident kit report within</b></p>

14 (Pages 53 to 56)

<p style="text-align: right;">Page 57</p> <p>1 five minutes of the accident or anything like that?</p> <p>2 A. I'm not certain, but it's probably</p> <p>3 required to fill it out as soon as possible.</p> <p>4 Q. Okay. You're not aware of any written</p> <p>5 documentation or training you've received that says</p> <p>6 fill it out within five minutes?</p> <p>7 A. I don't recall at this time.</p> <p>8 Q. Okay. In any event, you had a bit of time</p> <p>9 there by yourself to -- to consider things; right?</p> <p>10 A. Before writing the report?</p> <p>11 Q. Right.</p> <p>12 A. Probably a few minutes, yes.</p> <p>13 MR. LESTER: We're coming up -- would</p> <p>14 this -- we've been going for a little over an hour,</p> <p>15 is this a good break point or --</p> <p>16 MR. THOMPSON: Sure, we can take a break.</p> <p>17 MR. LESTER: Stretch our legs.</p> <p>18 MR. THOMPSON: Take five minutes --</p> <p>19 MR. LESTER: That would be fine.</p> <p>20 MR. THOMPSON: -- would that work?</p> <p>21 THE VIDEOGRAPHER: Going off the record.</p> <p>22 Time now is 3:34 p.m.</p> <p>23 (Discussion off the record.)</p> <p>24 THE VIDEOGRAPHER: We are back on the</p> <p>25 record. The time now is 3:39 p.m.</p>	<p style="text-align: right;">Page 59</p> <p>1 Q. Do you recall filling anything else out?</p> <p>2 A. I don't have any recollection of that.</p> <p>3 Q. Would -- after the collision, would you</p> <p>4 have, very shortly thereafter, contacted dispatch or</p> <p>5 Mr. Cheek?</p> <p>6 A. Absolutely.</p> <p>7 Q. Okay. Did you call on a cell phone?</p> <p>8 A. Yes.</p> <p>9 Q. Was it your cell phone?</p> <p>10 A. Yes.</p> <p>11 Q. Is that a cell phone you own as opposed to</p> <p>12 a company cell phone?</p> <p>13 A. That's correct, it's my personal cell</p> <p>14 phone.</p> <p>15 Q. Okay. And what is the number of that</p> <p>16 phone?</p> <p>17 A. It's (620) 343-0411.</p> <p>18 Q. And who's the -- who was the service</p> <p>19 provider for that number back in July of 2018?</p> <p>20 A. It would have been Verizon.</p> <p>21 Q. Okay. Do you get paper bills, or do you</p> <p>22 get electronic bills?</p> <p>23 A. I'd have to ask my wife.</p> <p>24 Q. Okay. And I guess the better question is</p> <p>25 back in July of '18, would you have gotten -- or</p>
<p style="text-align: right;">Page 58</p> <p>1 MR. THOMPSON: If we could, Brian, could</p> <p>2 you bring up on Exhibit 16, page -- page 4.</p> <p>3 Q. (By Mr. Thompson) Mr. Ajello, are you</p> <p>4 familiar with the document, page 4 of Exhibit 16?</p> <p>5 A. I am.</p> <p>6 Q. And it appears this is a two-page document</p> <p>7 that goes on to page 5 of Exhibit 16; correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And on that second page, we see your name</p> <p>10 and your signature and the date of 7/16/18; right?</p> <p>11 A. Yes.</p> <p>12 Q. Is this a document that is found in the</p> <p>13 accident kit that would have been in the cab?</p> <p>14 A. Yes, it is.</p> <p>15 Q. Okay. What is in that accident kit?</p> <p>16 Obviously there's this document. You've</p> <p>17 already indicated there's a camera. What else is in</p> <p>18 the accident kit?</p> <p>19 A. Just other -- a couple other forms for</p> <p>20 documentation. One -- been a while since I've seen</p> <p>21 that; so I can't exactly remember what's in there.</p> <p>22 Q. I'm glad it's been a while.</p> <p>23 You think there's a couple other forms?</p> <p>24 A. I think there were a couple other items in</p> <p>25 there.</p>	<p style="text-align: right;">Page 60</p> <p>1 August of '18, would you have gotten the paper bill</p> <p>2 or electronic bill? You don't know?</p> <p>3 A. I -- I -- I have no idea. I don't take</p> <p>4 care of the bills.</p> <p>5 Q. That's okay. You have to ask your better</p> <p>6 half; right?</p> <p>7 A. The boss.</p> <p>8 Q. The boss.</p> <p>9 Would the first call you made have been to</p> <p>10 Mr. Cheek?</p> <p>11 A. I believe I would have dialed 911.</p> <p>12 Q. Okay. After dialing 911, would the next</p> <p>13 call have been to Mr. Cheek?</p> <p>14 A. Of course, yes.</p> <p>15 Q. Do you recall any other calls you would</p> <p>16 have made while still at the scene before you left</p> <p>17 with the tow truck?</p> <p>18 A. I might have called my wife, I don't know.</p> <p>19 Q. Okay. Maybe tell her it's going to be a</p> <p>20 little later today?</p> <p>21 A. Just tell her that maybe there was an</p> <p>22 incident. I don't remember if I did call anybody</p> <p>23 else or not.</p> <p>24 Q. As you sit here today, other than calling</p> <p>25 911, and other than calling Mr. Cheek, are there any</p>

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<p style="text-align: right;">Page 61</p> <p>1 other calls that you feel pretty strongly you made?</p> <p>2 A. I don't recall any.</p> <p>3 Q. Okay. When you -- immediately after the</p> <p>4 impact, did you get out of the cab?</p> <p>5 A. Yes, we both did.</p> <p>6 Q. Okay. So he got out of his cab, you got</p> <p>7 out of your cab, and what was the first thing you</p> <p>8 said to him?</p> <p>9 A. "Are you okay?"</p> <p>10 Q. And what was his response?</p> <p>11 A. He's fine, and he asked me if I was okay.</p> <p>12 Q. And what'd you tell him?</p> <p>13 A. I'm fine.</p> <p>14 Q. Okay. Any other communication you</p> <p>15 remember having with him as you guys got out of the</p> <p>16 truck?</p> <p>17 A. Not really, no.</p> <p>18 Q. Okay. Did he then get back in his truck?</p> <p>19 A. I believe so.</p> <p>20 Q. And you got back in your cab?</p> <p>21 A. That's correct.</p> <p>22 Q. Was that the end of any face-to-face</p> <p>23 communication and contact with you?</p> <p>24 A. No.</p> <p>25 Q. Okay. Tell me what happened then -- next</p>	<p style="text-align: right;">Page 63</p> <p>1 there were any vehicles in front of him?</p> <p>2 A. I have no idea.</p> <p>3 Q. Okay. May have been, may not have been?</p> <p>4 A. My -- when he changed lanes in front of me</p> <p>5 before he slammed on his brakes, he took away all of</p> <p>6 my vision of what was going on in front of me</p> <p>7 because he was maybe 12, maybe 15 feet in front of</p> <p>8 me when he merged over.</p> <p>9 Q. Okay. How much distance had you been</p> <p>10 maintaining prior to him coming into your lane?</p> <p>11 A. Prior to him changing lanes, I was four,</p> <p>12 five vehicle lengths behind some cars.</p> <p>13 Q. Okay. What was -- when he merged over</p> <p>14 into the left-hand lane, your lane -- what was the</p> <p>15 speed limit?</p> <p>16 A. Forty-five.</p> <p>17 Q. Okay. And so basically, based on your --</p> <p>18 kind of your formula, you would have at least</p> <p>19 been -- you -- you probably would have been around</p> <p>20 45 or 50 feet behind the vehicles in front of you?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. And he came over into that space?</p> <p>23 A. Yes.</p> <p>24 Q. Obviously, vehicles don't just, as they</p> <p>25 used to, I guess, in Star Trek, move from one spot</p>
<p style="text-align: right;">Page 62</p> <p>1 that led to additional face-to-face contact and</p> <p>2 communication?</p> <p>3 A. Well, after that face-to-face initially in</p> <p>4 the left lane after the impact, we both pulled over</p> <p>5 to the far right shoulder, and we both got out and</p> <p>6 inspected each other's vehicles and made our</p> <p>7 documentations and our pictures.</p> <p>8 Q. Okay. So you guys get back in your cab,</p> <p>9 and he gets in his cab. Before you moved your</p> <p>10 vehicle, did you call 911?</p> <p>11 A. I don't remember if it was before or after</p> <p>12 we moved.</p> <p>13 Q. Do you know if you called 911 even before</p> <p>14 you got out of your cab the first time?</p> <p>15 A. I don't remember.</p> <p>16 Q. Okay. In any event, you both decide to</p> <p>17 move your vehicles off to the right-hand side?</p> <p>18 A. Yes, because it was just a minor incident.</p> <p>19 Q. Okay.</p> <p>20 A. There were no injuries.</p> <p>21 Q. And did he move his vehicle first? I</p> <p>22 would assume he had to.</p> <p>23 A. Possibly. He was 10 feet or so ahead of</p> <p>24 me, 12 feet ahead of me by the time when we stopped.</p> <p>25 Q. At the time you hit him, do you know if</p>	<p style="text-align: right;">Page 64</p> <p>1 to the next. There's movement when a vehicle moves</p> <p>2 into your lane; right?</p> <p>3 A. That's true.</p> <p>4 Q. I mean, they don't come over instantly,</p> <p>5 and they don't --</p> <p>6 A. No.</p> <p>7 Q. -- they don't move and get dropped into</p> <p>8 the space, there's a merging; right?</p> <p>9 A. Absolutely.</p> <p>10 Q. I'm not trying to be facetious, I'm just</p> <p>11 trying to explain the process and see if you agree</p> <p>12 with me.</p> <p>13 A. I understand.</p> <p>14 Q. So I assume at the time he began his merge</p> <p>15 into your lane, you were looking forward?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. And so you saw him as he began to</p> <p>18 make that move?</p> <p>19 A. He made a quick move. The -- the curve is</p> <p>20 slightly downhill and to the right, so it was a</p> <p>21 pretty quick merge, because he's already -- you</p> <p>22 know, it's a shorter merge for him because it's a</p> <p>23 right-hand curve; so it happened very quickly.</p> <p>24 Q. I understand. But the point is you're</p> <p>25 looking ahead, and you're seeing his vehicle start</p>

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<p style="text-align: right;">Page 65</p> <p>1 to come into your lane. And I assume, as an  2 experienced commercial operator, you're going, This  3 guy's going to come over; right?  4 A. I didn't know he was coming over till he  5 was moving into the lane.  6 Q. Right. As he starts to merge into your  7 lane, as his vehicle starts to break the plane into  8 your lane, you're an experienced commercial motor  9 vehicle operator, you understand that he's going to  10 be coming into your lane; right? You're not happy  11 about it, but you understand that's what about -- is  12 about to occur?  13 A. I see him moving over.  14 Q. And you know that he is now in -- in your  15 mind, infringed on your 45 or 50 feet of space  16 management; right?  17 A. He merged in front of me about 12 to  18 15 feet maximum, and at that time I was still  19 decelerating with my engine brake on, I was already  20 downshifted one gear, and I had my foot on the  21 brake. I was already slowing down for the  22 conditions that were happening ahead of me.  23 Q. Because you understood that -- that  24 traffic was slowing and congested in front of you;  25 right?</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. So you knew that immediately you need to  2 really start slowing down because you had no vision  3 of what was going on in front of you?  4 A. I was -- I was really slowing down.  5 Q. Okay.  6 A. I just could not stop as fast as he could.  7 Q. And my -- understand, sir. My questions  8 are a little bit different; so try to listen to the  9 question.  10 Your -- you realized that traffic is  11 congested there not only because you can see it,  12 this is before he merges, but it's -- from your  13 experience of years of making that same maneuver day  14 after day, you know that that's a bottleneck; right?  15 A. I'm well versed with it.  16 Q. And you know that even though it says you  17 can go 45, that doesn't mean it's okay to go 45;  18 right?  19 A. Absolutely.  20 Q. And so even before he comes into your lane  21 and blinds your view of traffic in front of you, you  22 know you've got a situation where traffic's  23 congested and may actually come to a stop; right?  24 A. Yes, and I had plenty of time -- a safe  25 distance behind the vehicle I was following, I had</p>
<p style="text-align: right;">Page 66</p> <p>1 A. It always is there.  2 Q. Right. So you knew, when you come around  3 that curve, you've got to be -- even though the  4 speed limit is 45, you've got to be slowing?  5 A. Yes, absolutely.  6 Q. Okay. And when he started his merge, do  7 you believe you were going 45?  8 A. I think when he merged over, I was quite a  9 bit under the speed limit, as was the traffic ahead  10 of me.  11 Q. So he didn't block your view of the  12 traffic ahead of you knowing that -- allow --  13 allowing you to know that at least the traffic in  14 front of you, as it very often does there, was  15 slowing down; right?  16 A. I was slowing down with the traffic ahead  17 of me, and I had a clear view. And like I said, it  18 was a -- a right-hand curve. As soon as he started  19 merging, I lost -- before he even got all the way  20 into my -- in the left lane, I lost all the field of  21 vision, what was going on ahead of me.  22 Q. So now you were in a situation where you  23 were basically blind to traffic in front of you;  24 right?  25 A. He blinded my view of traffic, yes.</p>	<p style="text-align: right;">Page 68</p> <p>1 more than enough time to react to any situation that  2 was going to happen.  3 Q. Do you recall what vehicle was in front of  4 you?  5 A. Just some generic, you know, jelly bean  6 cars.  7 Q. Okay. I -- it would have been amazing if  8 you could have identified it. I'm not -- I'm not  9 berating you or criticizing you for not, I'm just  10 trying to find out can you tell -- you're not going  11 to be able to say, "Yes, it was a Chevrolet Impala  12 that was red"; right?  13 A. That's correct, yeah, I wouldn't be able  14 to make that distinction.  15 Q. So in any event --  16 And you've been trained as a commercial  17 motor vehicle operator, in terms of whether it's fog  18 or it's other circumstances, smoke, anything --  19 vehicles blinding you; once you've lost your view of  20 traffic, and you're effectively blinded, you know  21 you've got to get your vehicle slowed down very  22 fast; right?  23 A. Absolutely.  24 Q. And so as he moves into your lane, you  25 appreciate and understand that he's going to blind</p>

17 (Pages 65 to 68)

<p style="text-align: right;">Page 69</p> <p>1 you just because of his proximity to you and his</p> <p>2 size; right?</p> <p>3 A. It happened so quick, I knew it was</p> <p>4 happening.</p> <p>5 Q. And so from the very moment he is try --</p> <p>6 he is starting to move into your lane, you're</p> <p>7 already slowing down, and the urgency of slowing</p> <p>8 down becomes even greater; right?</p> <p>9 A. And I press my brake a lot harder.</p> <p>10 Q. As soon as you saw that he was starting to</p> <p>11 make that move?</p> <p>12 A. Absolutely.</p> <p>13 Q. Do you remember what gear you were in when</p> <p>14 he started to come over?</p> <p>15 A. I would have been in ninth gear.</p> <p>16 Q. Okay. You would agree with me that, in</p> <p>17 congested traffic, it is very common to have people</p> <p>18 who very often -- as we talked about before --</p> <p>19 four-wheelers that are lane jumpers; right?</p> <p>20 A. It's a -- just a fact of life.</p> <p>21 Q. It's a fact of life as a commercial motor</p> <p>22 vehicle operator that when you get into congested</p> <p>23 traffic, you have people killing your space</p> <p>24 management; right?</p> <p>25 A. It's true whether I'm in a car or a truck.</p>	<p style="text-align: right;">Page 71</p> <p>1 the point of impact over to the right-hand side of</p> <p>2 the road?</p> <p>3 A. It would be safe to say that, yes.</p> <p>4 Q. Okay. In terms of the time period, the 45</p> <p>5 minutes -- or strike that.</p> <p>6 Let me ask you this: We were talking</p> <p>7 about how long he was underneath his truck trying to</p> <p>8 mess with the light bar, but I never asked you how</p> <p>9 long from the time the collision occurred until you</p> <p>10 were in the tow truck getting towed away. How much</p> <p>11 time occurred?</p> <p>12 A. Gosh, it would be probably hour and 45</p> <p>13 minutes to two hours.</p> <p>14 Q. (By Mr. Thompson) Okay. Do you know when</p> <p>15 in the hour and 45 minutes to two hours you filled</p> <p>16 out pages 4 and 5 of Exhibit 16?</p> <p>17 A. I would guess within the first 10, 15</p> <p>18 minutes.</p> <p>19 Q. Okay. Would it have been before or after</p> <p>20 you talked to Mr. Cheek?</p> <p>21 A. That's a good question.</p> <p>22 Q. Sometimes I ask a good question.</p> <p>23 MR. LESTER: You've got one.</p> <p>24 A. I -- I don't recall.</p> <p>25 Q. (By Mr. Thompson) Okay. Do you know how</p>
<p style="text-align: right;">Page 70</p> <p>1 Any vehicle.</p> <p>2 Q. And that's a -- that's something you knew</p> <p>3 back on July 16, 2018; right?</p> <p>4 A. Something I've known since driver's ed in</p> <p>5 high school.</p> <p>6 Q. And I bet you've come through that very</p> <p>7 location before and had vehicles jump in front of</p> <p>8 you?</p> <p>9 A. Pretty much every day. I'm prepared for</p> <p>10 it all.</p> <p>11 Q. How long after he got fully in your lane</p> <p>12 did the impact occur?</p> <p>13 A. Maybe two seconds at the most.</p> <p>14 Q. Now, if we go back and look at Exhibit 16,</p> <p>15 going back to page 4. Is everything on page 4 of</p> <p>16 Exhibit 6 -- 16, that first page of this</p> <p>17 "Accident/Incident Data" form, filled out in your</p> <p>18 handwriting?</p> <p>19 A. Oh, yes. Yes, it is.</p> <p>20 Q. And it all would have been filled out at</p> <p>21 the scene of this collision; correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Would it have been filled out -- I assume,</p> <p>24 but I shouldn't assume anything -- would it have</p> <p>25 been filled out after you moved your vehicle from</p>	<p style="text-align: right;">Page 72</p> <p>1 long it took you to fill out pages 4 and 5 of</p> <p>2 Exhibit 16?</p> <p>3 A. Probably three or four minutes.</p> <p>4 Q. You understood that it was important</p> <p>5 information that the company was requiring you fill</p> <p>6 out; right?</p> <p>7 A. I would think so.</p> <p>8 Q. That it was going to be the initial,</p> <p>9 basically, report of the incident; right?</p> <p>10 A. Yes, but I never -- didn't really think of</p> <p>11 it on those terms. Just there's a limited space, so</p> <p>12 I just quickly wrote down the basics.</p> <p>13 Q. Do you consider yourself to be a</p> <p>14 relatively calm person?</p> <p>15 A. I like to think so, yes.</p> <p>16 Q. I mean, it sounds like over the years</p> <p>17 you've probably dealt with some fairly difficult --</p> <p>18 whether it be weather, bad road conditions, bad</p> <p>19 traffic conditions, circumstances that can be fairly</p> <p>20 stressful. Is that fair?</p> <p>21 A. Living in the Midwest, coming to Kansas</p> <p>22 City every day.</p> <p>23 Q. I know. Sometimes we're driving on ice</p> <p>24 rinks.</p> <p>25 A. It's amazing.</p>

18 (Pages 69 to 72)

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<p style="text-align: right;">Page 73</p> <p>1 <b>Q. But the point is you -- you -- you believe</b>  2 <b>you handle yourself pretty well under pressure?</b>  3 A. I know how to adjust for the situation,  4 yes.  5 <b>Q. You don't panic?</b>  6 A. I hope not, no.  7 <b>Q. Okay. In your description on page 5 of</b>  8 <b>Exhibit 16, can you go ahead and read into the</b>  9 <b>record -- you have -- you don't have bad</b>  10 <b>handwriting, but I don't want to be missing</b>  11 <b>anything. So --</b>  12 A. Pretty bad.  13 <b>Q. -- why don't -- why don't you go ahead and</b>  14 <b>read what you have written here in the description</b>  15 <b>which states "Explain in your own words what</b>  16 <b>happened."</b>  17 A. What I have written down at that time,  18 looks like "Driving with the flow of traffic  19 westbound I-70 at the 670 split in the southeast  20 corner of the downtown loop. I am in lane 3  21 following at a safe distance. Vehicle 2 comes  22 around me and dives in front of me and blocks my  23 vision as traffic is slowing, and I think he  24 overreacts and slams on his brakes and comes to a  25 stop, and I am not -- as I just did little enough --</p>	<p style="text-align: right;">Page 75</p> <p>1 <b>two or three more feet, you would have been stopped?</b>  2 A. If I would have been speeding like him or  3 go -- driving slower, this would have never  4 happened.  5 <b>Q. Okay. The -- the point being if you</b>  6 <b>had -- if -- if the situation had given you just a</b>  7 <b>few more feet, maybe 5 or 10 feet, you would have</b>  8 <b>been stopped; right?</b>  9 A. I'm thinking probably another 6 inches,  10 and that would have probably been avoided.  11 <b>Q. Okay. If you had another 6 inches to deal</b>  12 <b>with, this accident never would have happened?</b>  13 A. It's a possibility.  14 <b>Q. If you had another few feet, we can pretty</b>  15 <b>much --</b>  16 A. Yes.  17 (Overlapping speakers.)  18 <b>Q. -- stand that it wouldn't have happened?</b>  19 A. I agree.  20 <b>Q. When he came into your lane, do you have</b>  21 <b>any estimate of how fast he was traveling?</b>  22 A. When he started to come -- when he  23 overtook me, he was obviously going a little faster  24 than I was, but then he -- he -- he changed his  25 speed up, pretty much matched my speed, then just</p>
<p style="text-align: right;">Page 74</p> <p>1 and I did not as I just" -- I must have -- it looks  2 like I said "I just did little enough room after his  3 lane change." Maybe it should say "didn't have."  4 But -- and it says "All this happened in just a few  5 seconds' time."  6 My handwriting's terrible.  7 <b>Q. I don't think it's so bad.</b>  8 MR. LESTER: Mine's worse.  9 <b>Q. (By Mr. Thompson) And then there's</b>  10 <b>some -- there's your name that's handwritten and</b>  11 <b>then your signature. And then we have to kind of</b>  12 <b>turn the document. I don't know if we can just --</b>  13 <b>if Brian can be just the master here and -- and turn</b>  14 <b>that around, but if he can't, can you read -- is</b>  15 <b>that also your handwriting the -- the writing that's</b>  16 <b>kind of perpendicular to the rest of the writing?</b>  17 A. It looks like my scribble, yes.  18 <b>Q. Okay. Can you tell us what that says?</b>  19 A. I'll be guessing. It says something --  20 maybe "I believe only a few feet from getting  21 stopped."  22 <b>Q. Okay. And is that your belief today, that</b>  23 <b>you were only a few feet from getting stopped?</b>  24 A. Or less maybe.  25 <b>Q. Okay. So if you just -- if you just had</b></p>	<p style="text-align: right;">Page 76</p> <p>1 came right over and slammed on his brakes.  2 That's -- that's all that happened.  3 <b>Q. So when he was -- when he was coming over,</b>  4 <b>he was going about your speed?</b>  5 A. I would -- yeah, I would estimate that.  6 <b>Q. And then when he was fully in your lane,</b>  7 <b>he then slams on his brakes?</b>  8 A. That's correct.  9 <b>Q. Okay. And we've been this -- through this</b>  10 <b>before, and I understand you believe this may not</b>  11 <b>have been accurate, but anyway, at the time you said</b>  12 <b>he had come to a stop when you hit him; right?</b>  13 A. That's what I had written at that time,  14 yes.  15 <b>Q. Okay. That may be accurate, it may not be</b>  16 <b>accurate; is that fair?</b>  17 A. On that point, yes.  18 <b>Q. Okay. And your best estimate of how fast</b>  19 <b>your vehicle was traveling when you hit him is what?</b>  20 A. Well, if he was stopped, it probably  21 wasn't more than 5 miles an hour at the impact. So  22 I'm thinking probably a 5-mile-an-hour differential  23 in -- in speed.  24 I was thinking -- after recollecting on  25 this, or rethinking about this, I imagine he was</p>

19 (Pages 73 to 76)

<p style="text-align: right;">Page 77</p> <p>1 still rolling maybe 10 miles an hour, and I might  2 have been doing 15 at the time of impact. Some --  3 just a 5-mile-an-hour differential, but it was a  4 very low speed.  5 <b>Q. And I asked you this before, but your view</b>  6 <b>was blinded. You don't know if traffic was stopped</b>  7 <b>in front of him or not; right?</b>  8 A. That's correct.  9 <b>Q. I mean, traffic in front of him may have</b>  10 <b>been completely stopped, but because you didn't have</b>  11 <b>a view of that, you don't know; right?</b>  12 A. That's correct. But traffic was slowing  13 in the right lane.  14 <b>Q. And sometimes you've seen traffic just</b>  15 <b>moving slowly through there at a -- at a choke</b>  16 <b>point, and sometimes you've seen it stopped; right?</b>  17 A. That's correct. Some -- some -- sometimes  18 somebody overreacts.  19 <b>Q. Or sometimes the congestion is just such,</b>  20 <b>and there's enough traffic that the safe thing to do</b>  21 <b>is to stop and pause for a moment; right?</b>  22 A. If possible, if that's what it takes.  23 <b>Q. When you got out of your truck, were --</b>  24 <b>for the first time after the accident, do you recall</b>  25 <b>seeing any traffic in front of him?</b></p>	<p style="text-align: right;">Page 79</p> <p>1 see him.  2 <b>Q. Okay.</b>  3 A. The volume of traffic there, I'm not  4 worried about what's past me, I'm worried about  5 what's going on right ahead of me.  6 <b>Q. Okay. So at that point your focus -- let</b>  7 <b>me ask you this: Do you have kind of a general</b>  8 <b>procedure -- some commercial motor vehicle operators</b>  9 <b>have kind of a general procedure of how they work</b>  10 <b>their mirrors.</b>  11 <b>Do you have kind of a custom and practice</b>  12 <b>on how you work your mirrors just when you're</b>  13 <b>driving down the road?</b>  14 A. Yes, I -- I keep an eye on both mirrors so  15 I know I'm managing my lane and know what people are  16 doing around me.  17 <b>Q. Okay. So on that truck, how many mirrors</b>  18 <b>did that truck have?</b>  19 A. It has two large mirrors and one spot --  20 spot mirror on the doors and spot mirrors on each  21 side on the hood.  22 <b>Q. All right. So it has -- it has a total of</b>  23 <b>six mirrors; right?</b>  24 A. That's correct.  25 <b>Q. And when you're checking your mirrors, are</b></p>
<p style="text-align: right;">Page 78</p> <p>1 A. I don't recall any traffic ahead of him.  2 <b>Q. One way or the other?</b>  3 <b>Do you know if it was there or it wasn't</b>  4 <b>there, or you don't --</b>  5 A. I don't recall seeing any traffic. I  6 don't know one way or the other.  7 <b>Q. Okay.</b>  8 A. I know that traffic was flowing in the  9 right lane next to us.  10 <b>Q. And we're talking about -- it -- I mean,</b>  11 <b>by the time you get out of your trucks, a little bit</b>  12 <b>of time has passed; right?</b>  13 A. Yeah, a few seconds, yeah. The situation  14 could change in a flash.  15 <b>Q. So you think you were out of your truck</b>  16 <b>within just a few seconds?</b>  17 A. Absolutely.  18 <b>Q. Okay. Is that the first rear-end</b>  19 <b>collision you've ever had?</b>  20 A. That I can remember, yes.  21 <b>Q. Okay. In a commercial motor vehicle?</b>  22 A. Or in any vehicle.  23 <b>Q. Okay. Prior to him coming in your lane,</b>  24 <b>did you ever see him?</b>  25 A. Not until he was overtaking me, I did not</p>	<p style="text-align: right;">Page 80</p> <p>1 <b>you checking all six mirrors?</b>  2 A. I'm checking at least four: The two on  3 the hood and the two large mirrors on the side.  4 <b>Q. And the two on the hood give you a view of</b>  5 <b>vehicles that are in close proximity down on your --</b>  6 <b>for instance, down on your right side; right?</b>  7 A. On both sides. It helps eliminate the  8 blind spot.  9 <b>Q. Right. They're -- have you ever heard</b>  10 <b>them referred to as blind spot mirrors?</b>  11 A. I think so.  12 <b>Q. Kind of makes sense that they would be</b>  13 <b>called that because that's exactly what they</b>  14 <b>address; right?</b>  15 A. That's correct.  16 <b>Q. Okay. And then, of course, your larger</b>  17 <b>mirrors on -- on each side of the vehicle give you a</b>  18 <b>little broader view of the lanes next to you; right?</b>  19 A. Yes. Without any distortion or  20 magnification or -- yes.  21 <b>Q. The round, or circular mirrors, there's a</b>  22 <b>little bit of distortion in those; right?</b>  23 A. Yes.  24 <b>Q. Objects may appear closer than they are;</b>  25 <b>right?</b></p>

20 (Pages 77 to 80)

<p style="text-align: right;">Page 81</p> <p>1 A. That's true.</p> <p>2 <b>Q. Okay. And when you're in the left-hand</b></p> <p>3 <b>lane, the focus on your left-hand mirror really</b></p> <p>4 <b>isn't as important as your right-hand mirror; is it?</b></p> <p>5 A. That's correct.</p> <p>6 <b>Q. Because there's no lane there to keep</b></p> <p>7 <b>track of; right?</b></p> <p>8 A. Only the lane edge to make sure you're</p> <p>9 still on the road.</p> <p>10 <b>Q. Exactly. And you can also check that lane</b></p> <p>11 <b>edge by looking forward; right?</b></p> <p>12 A. That's true. You have your -- your points</p> <p>13 on your hood that you're used to using.</p> <p>14 <b>Q. Okay. When you saw Mr. Stoneman</b></p> <p>15 <b>overtaking you, is that when you first realized that</b></p> <p>16 <b>he was going to come over?</b></p> <p>17 A. I didn't realize he was going to come over</p> <p>18 until he made the move.</p> <p>19 <b>Q. Okay --</b></p> <p>20 A. I didn't expect a -- I don't expect a lot</p> <p>21 of people to do that. There's cars that do that all</p> <p>22 day long, but I didn't expect another commercial</p> <p>23 vehicle to do that.</p> <p>24 <b>Q. So you're doing about 45, or even less</b></p> <p>25 <b>than 45, because you're not blinded yet because he's</b></p>	<p style="text-align: right;">Page 83</p> <p>1 <b>you moved them, and I think you said you -- you all</b></p> <p>2 <b>did some paperwork, you thought you did your</b></p> <p>3 <b>paperwork and took your pictures when you were over</b></p> <p>4 <b>on the right-hand side. Did you have any more</b></p> <p>5 <b>face-to-face communication and interaction?</b></p> <p>6 A. Just a little bit. We didn't talk about</p> <p>7 the weather, or anything like that. We made sure we</p> <p>8 were both fine. We checked out his vehicle, he</p> <p>9 checked out my vehicle. There was no damage to his,</p> <p>10 and my hood was broken and cracked both my</p> <p>11 windshields, and I had a leaking radiator.</p> <p>12 <b>Q. Was the light bar he was working on</b></p> <p>13 <b>damaged that occurred in this accident?</b></p> <p>14 A. There wasn't any damage, it -- it -- for</p> <p>15 some reason it -- they must have had some small mild</p> <p>16 steel bolts holding it onto the frame, and it</p> <p>17 just -- it tapped it and broke the bolts. It looked</p> <p>18 like there was no damage to the light bar.</p> <p>19 <b>Q. Okay. Is it -- based on your</b></p> <p>20 <b>understanding of the circumstances -- I'm not</b></p> <p>21 <b>suggesting it was major structural damage, or</b></p> <p>22 <b>anything like that, it wasn't even a very heavy</b></p> <p>23 <b>piece of a -- of steel; right? I mean, it --</b></p> <p>24 <b>it's --</b></p> <p>25 MR. LESTER: Objection. Calls for</p>
<p style="text-align: right;">Page 82</p> <p>1 <b>not in front of you. You know you have to slow down</b></p> <p>2 <b>because traffic is congested right there; so you are</b></p> <p>3 <b>braking as he -- and you're downshifting as he</b></p> <p>4 <b>starts to come over; right? You're already doing</b></p> <p>5 <b>those things.</b></p> <p>6 A. Yeah. I've already downshifted, my engine</p> <p>7 brake's on, my foot on the brake, and I'm keeping a</p> <p>8 safe distance to the vehicles ahead of me.</p> <p>9 <b>Q. Okay. And as -- I think you've already</b></p> <p>10 <b>indicated this, but as he starts to come over, and</b></p> <p>11 <b>you realize he's coming over, the urgency of slowing</b></p> <p>12 <b>even further and faster and being harder on your</b></p> <p>13 <b>brake comes into your mind; right?</b></p> <p>14 A. Yes, I'm applying them a little firmer.</p> <p>15 It's on a little downhill, so it takes a second</p> <p>16 to -- to get the bite on the brake shoes.</p> <p>17 <b>Q. But you don't -- it's not a situation --</b></p> <p>18 <b>we're in a situation where you're not having to</b></p> <p>19 <b>move -- physically move your foot to the brake,</b></p> <p>20 <b>because your foot's already there; right?</b></p> <p>21 A. It's already there.</p> <p>22 <b>Q. So your ability to ply -- apply additional</b></p> <p>23 <b>pressure to the brake is immediate; right?</b></p> <p>24 A. And as it was.</p> <p>25 <b>Q. Once you guys got out of your vehicles,</b></p>	<p style="text-align: right;">Page 84</p> <p>1 speculation.</p> <p>2 MR. THOMPSON: I'll withdraw the question.</p> <p>3 <b>Q. (By Mr. Thompson) Let me ask you this:</b></p> <p>4 <b>My point is, is it your understanding or did you</b></p> <p>5 <b>appreciate that whatever had occurred, the bolt</b></p> <p>6 <b>breaking or whatever, occurred in the accident?</b></p> <p>7 A. I would speculate so.</p> <p>8 <b>Q. Okay.</b></p> <p>9 A. I don't remember -- I wouldn't think he</p> <p>10 would be driving down the road dragging it.</p> <p>11 <b>Q. I agree. I just wanted to make sure that</b></p> <p>12 <b>we were talking about the same thing.</b></p> <p>13 A. But I wouldn't know for sure because I</p> <p>14 never got to see that part of his truck until after</p> <p>15 the accident.</p> <p>16 <b>Q. Okay.</b></p> <p>17 A. Because he was so close, all I saw was the</p> <p>18 back of his rollback.</p> <p>19 <b>Q. By the time -- and I -- and how --</b></p> <p>20 <b>Do you have an estimate of how close he</b></p> <p>21 <b>was once he was fully in your lane?</b></p> <p>22 A. Twelve, maybe 15 feet.</p> <p>23 <b>Q. Okay. And your best estimate based on</b></p> <p>24 <b>where kind of the -- your very good knowledge of the</b></p> <p>25 <b>road is from the Benton curve -- out of the Benton</b></p>

21 (Pages 81 to 84)

<p style="text-align: right;">Page 85</p> <p>1 curve, but not before the CMV restriction is lifted,  2 you got into the left-hand lane and remained in the  3 left-hand lane until you struck Mr. Stoneman from  4 the rear; right?  5 A. I was in that left-hand lane as soon as  6 the restriction was lifted for -- it had to have  7 been a mile or a little bit better before the  8 incident happened, yes.  9 <b>Q. So would you have been traveling at about</b>  10 <b>55 miles an hour at that time?</b>  11 A. I would have probably been around 45,  12 accelerating to 55 coming out of the curve.  13 <b>Q. Because the curve has a suggested --</b>  14 <b>quote/unquote, suggested 45 MPH; right?</b>  15 A. And it's a good thing it's there.  16 <b>Q. And you take it seriously and operate at</b>  17 <b>that speed?</b>  18 A. Absolutely. Don't want the load to shift.  19 <b>Q. So you're -- you then accelerate to 55 or</b>  20 <b>thereabouts because that's what the speed limit is</b>  21 <b>coming out of the curve, and then the speed limit</b>  22 <b>changes to 45; is that right?</b>  23 A. That's correct.  24 <b>Q. And you would have slowed down to 45?</b>  25 A. I would have been near or at 45 at that</p>	<p style="text-align: right;">Page 87</p> <p>1 <b>Q. Maybe he just wanted to expect -- inspect</b>  2 <b>the vehicle.</b>  3 A. He did that.  4 <b>Q. Fair to say, while you consider yourself a</b>  5 <b>safe driver, you don't always travel within the</b>  6 <b>speed limit; fair?</b>  7 A. I generally go at the -- I try to go with  8 the flow of traffic when possible or when my truck  9 is able to. But generally it's not always the case  10 around Kansas City.  11 Yes, I -- I try to be the safest driver  12 possible.  13 <b>Q. Okay.</b>  14 A. It's not always -- I'm not watching my  15 speedometer every second of the day, but my truck  16 only goes so fast. I'm aware of situations around  17 the city or any given route, I know how to react to  18 things.  19 <b>Q. Right.</b>  20 A. And I know what to expect.  21 <b>Q. And -- and what Mr. Stoneman did that day</b>  22 <b>is nothing that you hadn't seen before; right?</b>  23 A. I haven't seen a commercial vehicle do  24 that.  25 <b>Q. You've never seen a commercial vehicle</b></p>
<p style="text-align: right;">Page 86</p> <p>1 sign.  2 <b>Q. At the sign that goes to 45?</b>  3 A. Yes. That's the law.  4 <b>Q. Okay. Have you ever gotten a speeding</b>  5 <b>ticket?</b>  6 A. I imagine I have.  7 <b>Q. Okay. Do you recall ever getting a</b>  8 <b>speeding ticket?</b>  9 A. Oh, I'm sure -- you know, I've been  10 driving for a lot of years. I know I've gotten  11 speeding tickets. I'm sure in my driver's file,  12 they probably have the documentation of something.  13 So if you have a specific one -- incident  14 or speed or whatever, you want to refer to, pull it  15 out and refresh me, I'll give you every detail about  16 it.  17 <b>Q. All right.</b>  18 A. I'll walk you right through it.  19 <b>Q. I'm just asking you, as you sit here</b>  20 <b>today, do you recall any? Do any come to mind?</b>  21 A. I remember once I was north of Salina in a  22 70-mile-an-hour zone. I believe I got a ticket for  23 71 or '2 miles an hour.  24 <b>Q. That's a harsh trooper.</b>  25 A. And I was following traffic.</p>	<p style="text-align: right;">Page 88</p> <p>1 <b>come over into a lane?</b>  2 A. Not in front of me and slam on the brakes.  3 <b>Q. So that was a first?</b>  4 A. That was a first.  5 <b>Q. As he was coming over, you understood he</b>  6 <b>was a commercial vehicle; right?</b>  7 A. He wasn't a private vehicle.  8 <b>Q. Right. It was a commercial vehicle;</b>  9 <b>right?</b>  10 A. I believe so. I believe they're for hire.  11 <b>Q. Okay. Do you have any military service,</b>  12 <b>sir?</b>  13 A. I spent a little time in the U.S. Army  14 when I was a teenager.  15 <b>Q. All right. Honorably discharged?</b>  16 A. Honorable under general conditions, or  17 general under honorable.  18 <b>Q. How long did you serve?</b>  19 A. Just under two years.  20 <b>Q. What was your MOS?</b>  21 A. 96 Bravo.  22 <b>Q. How long have you had a CDL?</b>  23 A. Since the mid-'80s.  24 <b>Q. Did you pass your -- did you pass your CDL</b>  25 <b>on the first time?</b></p>

22 (Pages 85 to 88)

<p style="text-align: right;">Page 89</p> <p>1 A. Yes.</p> <p>2 <b>Q. Have you told me anything specifically</b></p> <p>3 <b>that you recall Mr. Stoneman saying? Anything that</b></p> <p>4 <b>you can specifically say -- for instance, you recall</b></p> <p>5 <b>him saying, "I'm fine, I'm -- I'm okay," something</b></p> <p>6 <b>to that effect. Anything else you can say, "I know</b></p> <p>7 <b>he said that"?</b></p> <p>8 A. No, because that was the only main</p> <p>9 concern. There was no other reason we would be</p> <p>10 discussing anything else.</p> <p>11 <b>Q. I mean, other than that, it was just</b></p> <p>12 <b>property damage, and that can get taken care of;</b></p> <p>13 <b>right?</b></p> <p>14 A. Basically nobody was hurt, nothing --</p> <p>15 nothing on his vehicle was damaged, and he was fine.</p> <p>16 I didn't even realize his taillight bar</p> <p>17 was off the truck until I saw him underneath the</p> <p>18 truck trying to put it back up.</p> <p>19 <b>Q. Did you go through any weigh stations that</b></p> <p>20 <b>day?</b></p> <p>21 A. I don't believe I would have that day.</p> <p>22 <b>Q. Did you fill up with any fuel anywhere?</b></p> <p>23 A. Only at the yard, we had a bulk tank.</p> <p>24 <b>Q. With respect to your -- how are you</b></p> <p>25 <b>compensated? Hours? By the hour? By mile? Are</b></p>	<p style="text-align: right;">Page 91</p> <p>1 <b>Q. And you have your wife taking care of the</b></p> <p>2 <b>bills?</b></p> <p>3 A. Thank goodness.</p> <p>4 <b>Q. So are there times you have 10 drops?</b></p> <p>5 A. It's happened in the past, yes.</p> <p>6 <b>Q. That would be a big day?</b></p> <p>7 A. That would be a real big day, yes.</p> <p>8 <b>Q. Okay. Six is a -- does it sound about</b></p> <p>9 <b>average?</b></p> <p>10 A. Yeah. It makes for a nice 10-hour day.</p> <p>11 Hopefully no more.</p> <p>12 <b>Q. What is Kansas City to Emporia, about two</b></p> <p>13 <b>hours?</b></p> <p>14 A. 114 miles, hour and 40, 45 minutes to the</p> <p>15 staging area.</p> <p>16 <b>Q. Okay.</b></p> <p>17 A. On the turnpike.</p> <p>18 <b>Q. Okay. Where is the staging area --</b></p> <p>19 A. It's --</p> <p>20 <b>Q. -- as best you can describe it?</b></p> <p>21 A. It's between 58th Street and 78th Street.</p> <p>22 It's on both sides of I-70. There -- used to be the</p> <p>23 old vehicle inspection station. And the other side</p> <p>24 would be a truck parking area, which now is -- since</p> <p>25 they redid them both, they're both truck parking</p>
<p style="text-align: right;">Page 90</p> <p>1 <b>you salaried? That's what I'm trying to find out.</b></p> <p>2 A. I see. We're a performance-based, so it</p> <p>3 would be mileage and drops. The only time I would</p> <p>4 be paid by the hour, if it was extensive detention</p> <p>5 time, which is pretty much nonexistent.</p> <p>6 <b>Q. Mileages and draws?</b></p> <p>7 A. Drops.</p> <p>8 <b>Q. Drops?</b></p> <p>9 A. I'm sorry, I mumble. I'm getting old.</p> <p>10 <b>Q. That's okay.</b></p> <p>11 <b>So do you get paid more -- are the drops</b></p> <p>12 <b>calculated by the weight that you're dropping? The</b></p> <p>13 <b>amount of steel you're dropping? The number of</b></p> <p>14 <b>drops? How is it?</b></p> <p>15 A. Just the number of drops.</p> <p>16 <b>Q. Okay. So what is the average number of</b></p> <p>17 <b>drops in -- on your route in Kansas City?</b></p> <p>18 A. Probably like that day, six.</p> <p>19 <b>Q. Okay. Is six a good day or a bad day?</b></p> <p>20 <b>And by that I mean from a compensation standpoint.</b></p> <p>21 A. Oh, personally, I don't worry about the</p> <p>22 compensation because I'm not in that big of a need</p> <p>23 for money. I'm not a paycheck-to-paycheck person.</p> <p>24 <b>Q. Right.</b></p> <p>25 A. So six is more than adequate.</p>	<p style="text-align: right;">Page 92</p> <p>1 areas and staging areas as the official --</p> <p>2 <b>Q. Have you ever heard the expression "high</b></p> <p>3 <b>eye lead time"?</b></p> <p>4 A. I'm sorry, could you repeat that?</p> <p>5 <b>Q. "High eye lead time."</b></p> <p>6 A. I'm not sure what that means.</p> <p>7 THE REPORTER: Is it an eye like your eye?</p> <p>8 MR. THOMPSON: Like eye, like an eyeball.</p> <p>9 <b>Q. (By Mr. Thompson) Were you ever counseled</b></p> <p>10 <b>for this accident?</b></p> <p>11 A. I was talked to and said that I could</p> <p>12 probably do a little bit better and use my common</p> <p>13 sense and -- and it was pretty much about it.</p> <p>14 I -- they know that I do everything I can</p> <p>15 for -- for safety. And -- and like I told them,</p> <p>16 there was -- there was nothing I could do, I was</p> <p>17 driving in a safe manner before this incident</p> <p>18 happened.</p> <p>19 <b>Q. Are you aware that the police report</b></p> <p>20 <b>indicated that you were following too close and</b></p> <p>21 <b>traveling too fast?</b></p> <p>22 A. I read that, and I don't know why that's</p> <p>23 there. He wasn't there, he didn't witness the</p> <p>24 situation or the accident.</p> <p>25 <b>Q. If we go to page 16 of Exhibit --</b></p>

23 (Pages 89 to 92)

<p>Page 93</p> <p>1 Exhibit 16. So page 16 of 16. You indicated</p> <p>2 previously you were maintaining -- until</p> <p>3 Mr. Stoneman took it away from you, you were</p> <p>4 maintaining about 45 to 50 feet in front of you. Do</p> <p>5 you recall that testimony?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And you were traveling about</p> <p>8 45 miles an hour and slowing; right?</p> <p>9 A. I was probably a lot slower than 45 before</p> <p>10 he turned in front of me.</p> <p>11 Q. What the company counseled you, at least</p> <p>12 by this document, do you see "Accident Recurrence --</p> <p>13 Recurrence Prevention" under this form?</p> <p>14 MR. LESTER: You can read the whole page.</p> <p>15 Q. (By Mr. Thompson) Yeah. Sure. Take your</p> <p>16 time, read the whole page.</p> <p>17 A. Okay. I've read it.</p> <p>18 Q. Is it frustrating, as a commercial motor</p> <p>19 vehicle operator, to you that when you leave too</p> <p>20 much distance in front of you -- between you and the</p> <p>21 car in front of you, you invite a lane jumper?</p> <p>22 A. Doesn't bother me at all.</p> <p>23 Q. Okay. So you don't get up tight or -- I</p> <p>24 mean by that, I mean physical distance up tight to</p> <p>25 the vehicle in front of you to prevent that from</p>	<p>Page 95</p> <p>1 question's just a little different. Did you have an</p> <p>2 opportunity to read that?</p> <p>3 A. Yes, I -- I do read that.</p> <p>4 Q. And were you familiar with that policy</p> <p>5 that the company had?</p> <p>6 A. I must have been.</p> <p>7 Q. And will you -- would you agree and --</p> <p>8 agree with me that you weren't following that policy</p> <p>9 that day?</p> <p>10 And I understand you have a reason for</p> <p>11 that, but you weren't following that policy that</p> <p>12 day, were you?</p> <p>13 A. I was using common sense and keeping a</p> <p>14 safe distance behind the vehicle ahead of me.</p> <p>15 Q. I appreciate that's your explanation, but</p> <p>16 my question's a little different.</p> <p>17 You weren't following that policy that day</p> <p>18 at the time of the accident, were you?</p> <p>19 A. I believe this is probably just a general</p> <p>20 guideline. But six to eight seconds, I was probably</p> <p>21 five, six seconds behind the vehicle ahead of me at</p> <p>22 that time.</p> <p>23 Q. So you think having 45 to 50 feet of</p> <p>24 distance, it would take you five to six seconds to</p> <p>25 cover that at 35 miles an hour?</p>
<p>Page 94</p> <p>1 occurring, that's not your practice?</p> <p>2 A. That's not my practice.</p> <p>3 Q. Okay. Do you see where it says "Accident</p> <p>4 Recurrence Prevention," do you see that on the form?</p> <p>5 A. I believe I read that, yes.</p> <p>6 Q. And it says "The following policy is in</p> <p>7 place at NIM Transportation and if followed would</p> <p>8 have prevented this accident. Six to eight seconds</p> <p>9 following distance will be maintained under normal</p> <p>10 driving conditions. Under adverse driving</p> <p>11 conditions, 10 seconds following distance will be</p> <p>12 maintained." Do you see that?</p> <p>13 A. I do see that. You know, that's fair.</p> <p>14 They want us to use common sense in the --</p> <p>15 Under some conditions that's possible.</p> <p>16 Around Kansas City, the type of traffic there is,</p> <p>17 and the volume, it's impossible to have six to eight</p> <p>18 seconds following distance, especially around the</p> <p>19 city.</p> <p>20 If I tried to maintain the six to eight</p> <p>21 second distance between me and the vehicle ahead of</p> <p>22 me, I'd probably be doing 30 miles an hour or less.</p> <p>23 That would be a bigger hazard than being less than</p> <p>24 eight or six seconds.</p> <p>25 Q. I appreciate that, Mr. Ajello, my</p>	<p>Page 96</p> <p>1 A. Well, I'm sure it would take less time</p> <p>2 than that.</p> <p>3 Q. So you weren't maintaining that type of</p> <p>4 distance, were you?</p> <p>5 A. To the letter, no. Not to the letter of</p> <p>6 this.</p> <p>7 Q. And we understand, based on your testimony</p> <p>8 here today, that you didn't need a lot more distance</p> <p>9 to have kept this accident from happening because</p> <p>10 you almost got stopped; right?</p> <p>11 A. I almost got stopped. I did my best.</p> <p>12 Q. Have you ever reviewed your phone records</p> <p>13 for the day of that accident?</p> <p>14 A. I've never reviewed any phone records</p> <p>15 ever.</p> <p>16 Q. What time did you start out that day, do</p> <p>17 you recall?</p> <p>18 A. I don't totally recall, but I imagine</p> <p>19 being a single trailer, if the load was done on</p> <p>20 time, I probably would have started around 5:00 in</p> <p>21 the morning.</p> <p>22 Q. Would that have been when you got to the</p> <p>23 yard in Emporia?</p> <p>24 A. Yes, that would probably have been the</p> <p>25 time that I got to the yard.</p>

24 (Pages 93 to 96)

<p style="text-align: right;">Page 97</p> <p>1 <b>Q. You do your pretrip?</b>  2 A. Pretrip inspections, yes.  3 <b>Q. Takes about 15 minutes?</b>  4 A. Pretty much.  5 <b>Q. And then you would have headed out?</b>  6 A. I would have tied down my load, made sure  7 it was secured properly.  8 <b>Q. And you do that separate from a precheck,  9 pretrip?</b>  10 A. Some of it I can do at the same time.  11 <b>Q. Okay.</b>  12 A. Because I'm walking around the vehicle.  13 <b>Q. When do you believe you left the yard or  14 most likely would have left the yard hauling one  15 trailer?</b>  16 A. It could have been anywhere from 20 to 45  17 minutes later. I -- I don't recall.  18 <b>Q. Do you load your own trailers?</b>  19 A. No.  20 <b>Q. Okay. You understand under the Federal  21 Motor Carrier Safety Administration regulations you  22 are responsible for the securement of your load  23 though; right?</b>  24 A. That's correct.  25 <b>Q. And that's why you take securement</b></p>	<p style="text-align: right;">Page 99</p> <p>1 <b>Q. Okay. And you think you may have had how  2 much more steel on there?</b>  3 A. I would -- if -- just guessing, I would  4 say maybe 5 to 10,000 pounds.  5 <b>Q. Okay. So probably the maximum you're  6 rolling with at the time of the accident is 35,  7 38,000 pounds?</b>  8 A. Quick math, probably so.  9 <b>Q. Okay. May have been less?</b>  10 A. Or more.  11 <b>Q. What time would you normally go to bed?</b>  12 A. My habit of going to bed, usually around  13 7:00 o'clock.  14 <b>Q. Okay. And get up at what time?</b>  15 A. If I'm pulling doubles, 2:15, 2:30.  16 <b>Q. Well, I hope you have tomorrow off.</b>  17 A. I don't work weekends.  18 <b>Q. Good man.</b>  19 A. Actually, I had yesterday and today off.  20 <b>Q. All right.</b>  21 <b>You were -- you did a -- an alcohol test  22 after this accident; right?</b>  23 A. Absolutely.  24 <b>Q. Okay. And obviously that was negative?</b>  25 A. Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 <b>extremely seriously when you're carrying steel?</b>  2 A. Carrying anything.  3 <b>Q. Okay. Do you have any estimate of what  4 your truck weighed at the time of the accident?</b>  5 A. Just -- I'd be guessing. The truck and  6 trailer weighs 14 tons empty. I might have had five  7 or more tons left on the trailer.  8 <b>Q. So if -- if you were empty -- and I  9 understand you believe you had one more -- you had  10 a -- still had a little steel. But if you were  11 empty, the truck and trailer -- the tare weight of  12 the tuck and -- truck and tailor -- truck and -- the  13 tare, T-A-R-E, weight of the truck and trailer --</b>  14 MR. LESTER: Do you want to restart --  15 <b>Q. (By Mr. Thompson) -- would have been --  16 that's a tongue twister.</b>  17 MR. LESTER: Do you want to start this  18 question over.  19 <b>Q. (By Mr. Thompson) I'm going to start it  20 all over. But it's a tongue twister. It's better  21 than Sally sells seashells by the seashore.</b>  22 <b>In any event, the tare weight of the truck  23 and trailer that day, if empty, would have been  24 approximately 14 tons or 28,000 pounds?</b>  25 A. That's correct. Maybe just slightly more.</p>	<p style="text-align: right;">Page 100</p> <p>1 <b>Q. Okay. Do you have an understanding as to  2 whether a -- a drug or alcohol test was mandatory  3 under the Federal Motor Carrier Safety  4 Administration regulations based on the nature of  5 this accident?</b>  6 A. Yes, it's -- it's required under any type  7 of accident.  8 <b>Q. Why weren't you drug tested?</b>  9 A. I was drug tested.  10 <b>Q. Were you drug tested and alcohol tested?</b>  11 A. Drug, alcohol, yes.  12 <b>Q. Okay. What's your understanding of how  13 quickly after an accident like this you need to be  14 tested?</b>  15 A. I have no idea.  16 <b>Q. Okay. You -- you were tested back down in  17 Emporia; correct?</b>  18 A. I would -- yes. That's a safe assumption,  19 yes.  20 <b>Q. If the records show that it was around  21 7:00 something in the evening, would you have any  22 reason to disagree with that?</b>  23 A. I wouldn't know, but -- no, I wouldn't be  24 able to disagree or agree.  25 <b>Q. Okay. Mr. Cheek told you where to go for</b></p>

25 (Pages 97 to 100)

<p style="text-align: right;">Page 101</p> <p>1 that testing?</p> <p>2 A. It's always the same place. The hospital.</p> <p>3 Q. Because you also, as a commercial motor</p> <p>4 vehicle operator, are subject to random drug and</p> <p>5 alcohol testing; right?</p> <p>6 A. That's correct.</p> <p>7 Q. As part of an employer's program?</p> <p>8 A. Every -- yes. Every employer.</p> <p>9 Q. In other words, you're not singled out?</p> <p>10 A. I hope not.</p> <p>11 Q. No.</p> <p>12 A. If they are, they're looking for a</p> <p>13 negative.</p> <p>14 Q. Other than the Department of</p> <p>15 Transportation training modules that you recall, do</p> <p>16 you recall receiving any other specific training</p> <p>17 from NIM?</p> <p>18 A. We -- we have a -- quarterly safety</p> <p>19 meetings. People come down from Nebraska, the</p> <p>20 corporate guys for transportation, and we review a</p> <p>21 lot of things. If there's new requirements, we go</p> <p>22 over them there and do tie-down procedures or</p> <p>23 something new they want to try, we learn about it</p> <p>24 there.</p> <p>25 And we review the last three months as far</p>	<p style="text-align: right;">Page 103</p> <p>1 MR. LESTER: Same objections.</p> <p>2 A. I -- I don't totally disagree with space</p> <p>3 management, but I think sometimes it's not -- you're</p> <p>4 not able to realize or obtain the six to eight</p> <p>5 seconds. They want us to use common sense.</p> <p>6 Q. (By Mr. Thompson) And my question's a</p> <p>7 little bit different. It's just that the counseling</p> <p>8 you received after this accident was counseling</p> <p>9 directed at space management. That's a space</p> <p>10 management policy, the six to eight seconds; right?</p> <p>11 A. I imagine that's probably what was talked</p> <p>12 about, but I don't recall exactly what was said.</p> <p>13 Q. Okay. I assume that there's nothing</p> <p>14 mechanical about your truck that you believe didn't</p> <p>15 operate correctly that day that caused or</p> <p>16 contributed to cause this accident?</p> <p>17 I'm just asking to try to cover my bases.</p> <p>18 You're not saying the brakes didn't work, they</p> <p>19 weren't properly adjusted, anything like that?</p> <p>20 A. There were no defects.</p> <p>21 Q. Okay. Is there anything, as you look at</p> <p>22 this, that you can think of you wish you had done</p> <p>23 differently that day to have avoided this accident?</p> <p>24 A. I wish I would have stayed home.</p> <p>25 Q. Okay. Other than the PeopleNet system,</p>
<p style="text-align: right;">Page 102</p> <p>1 as safety, maintenance, and our scores nationwide.</p> <p>2 And periodically we'll receive flyers -- or I should</p> <p>3 say -- flyers. I guess you call them, flyers, I</p> <p>4 don't know --</p> <p>5 Q. Okay.</p> <p>6 A. -- of -- of any changes or anything new or</p> <p>7 anything for safety or any route changes or what to</p> <p>8 watch for in certain areas on certain routes.</p> <p>9 Q. Do you recall any training as it relates</p> <p>10 to space management?</p> <p>11 A. As far as -- I don't recall.</p> <p>12 Q. You understand what we've talked about</p> <p>13 today as space management, as a commercial motor</p> <p>14 vehicle operator, you understand that; right?</p> <p>15 A. As a driver I do, if anything.</p> <p>16 Q. You understand that that's an extremely</p> <p>17 important skill to have?</p> <p>18 A. For everybody, yes.</p> <p>19 Q. Okay. And you understand what the company</p> <p>20 was counseling you on was effectively a space</p> <p>21 management violation; right?</p> <p>22 MR. LESTER: Object to form.</p> <p>23 Q. (By Mr. Thompson) That's -- that's the</p> <p>24 type of violation they were counseling you on. I</p> <p>25 understand you disagree with it.</p>	<p style="text-align: right;">Page 104</p> <p>1 were there any other either communications or</p> <p>2 tracking or monitoring systems on that vehicle that</p> <p>3 day?</p> <p>4 A. Not that I'm aware of.</p> <p>5 Q. Okay. Do you know if there was ever a</p> <p>6 download done on the ECM module on that truck after</p> <p>7 the accident?</p> <p>8 A. I have no information on that. I have no</p> <p>9 idea.</p> <p>10 Q. Do you -- do you know that there is such a</p> <p>11 module on that truck?</p> <p>12 A. I would imagine so.</p> <p>13 Q. What type of engine does that truck have,</p> <p>14 a Detroit diesel?</p> <p>15 A. Detroit.</p> <p>16 MR. THOMPSON: Why don't we take a few</p> <p>17 minutes, I think I'm just about done. Take five.</p> <p>18 THE VIDEOGRAPHER: Going off the record.</p> <p>19 Time now is 4:33 p.m.</p> <p>20 (A recess was taken.)</p> <p>21 THE VIDEOGRAPHER: We are back on the</p> <p>22 record. The time now is 4:38 p.m.</p> <p>23 MR. THOMPSON: Mr. Ajello, I have no</p> <p>24 further questions for you today. I appreciate your</p> <p>25 patience with me. I appreciate you coming up here.</p>

26 (Pages 101 to 104)

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<p>Page 105</p> <p>1 I wish you safe travels back and a good weekend.</p> <p>2 THE WITNESS: Thank you very much. Same</p> <p>3 to you.</p> <p>4 MR. THOMPSON: Take care.</p> <p>5 EXAMINATION</p> <p>6 BY MR. LESTER:</p> <p>7 <b>Q. Mr. Ajello, I've got two -- three</b></p> <p>8 <b>questions. You understand that you -- that you --</b></p> <p>9 <b>it is your recollection that you took a drug test on</b></p> <p>10 <b>the day of the accident; correct?</b></p> <p>11 A. That's correct.</p> <p>12 <b>Q. And if Defendant's 715 is an email saying</b></p> <p>13 <b>that the result of your drug test was negative, that</b></p> <p>14 <b>comports with your recollection?</b></p> <p>15 A. Yeah, because it would have been after I</p> <p>16 went back to Emporia.</p> <p>17 <b>Q. And then my other question: Going to the</b></p> <p>18 <b>scene of the accident, you talked earlier about how</b></p> <p>19 <b>you lost vision of the traffic ahead at a certain</b></p> <p>20 <b>point in time; correct?</b></p> <p>21 A. That's correct.</p> <p>22 <b>Q. Before you lost vision, was the traffic</b></p> <p>23 <b>ahead stopped?</b></p> <p>24 A. No. We were flowing.</p> <p>25 <b>Q. Okay.</b></p>	<p>Page 107</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 I, Ellen L. Stock, a Certified Court</p> <p>4 Reporter of the State of Missouri, do hereby</p> <p>5 certify:</p> <p>6 That prior to being examined, the witness</p> <p>7 was first duly sworn;</p> <p>8 That said testimony was reported by me at</p> <p>9 the time and place hereinbefore stated and was</p> <p>10 thereafter reduced to typewriting under my</p> <p>11 direction;</p> <p>12 That the foregoing transcript is a true</p> <p>13 record of the testimony given by said witness;</p> <p>14 That I am not a relative or employee or</p> <p>15 attorney or counsel of any of the parties or a</p> <p>16 relative or employee of such attorney or counsel or</p> <p>17 financially interested in the action.</p> <p>18 Witness my hand and seal this 23rd day of</p> <p>19 July, 2021.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Ellen L. Stock</p> <p>24 Missouri Supreme Court</p> <p>25 Certified Court Reporter</p>
<p>Page 106</p> <p>1 MR. LESTER: No other questions.</p> <p>2 THE VIDEOGRAPHER: Concludes the</p> <p>3 deposition. The time now is 4:39 p.m.</p> <p>4 THE REPORTER: Read and sign?</p> <p>5 MR. LESTER: Read and sign.</p> <p>6 THE REPORTER: And do you want a copy of</p> <p>7 this?</p> <p>8 MR. LESTER: I would like an eTranscript,</p> <p>9 PDF emailed.</p> <p>10 (The deposition concluded at 4:39 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 108</p> <p>1 ERRATA SHEET</p> <p>2 RE: Christopher W. Stoneman v. Norfolk Iron &amp; Metal</p> <p>3 and James J. Ajello</p> <p>4 PG/LN Correction and Reason for Change</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22</p> <p>23 _____</p> <p>24 James J. Ajello</p> <p>25 ELS</p>

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SIGNATURE PAGE

RE: Christopher W. Stoneman v. Norfolk Iron & Metal  
and James J. Ajello

\_\_\_\_ I certify that I have read my testimony and  
request that NO changes be made.

\_\_\_\_ I certify that I have read my testimony and  
request that the above changes be made.

\_\_\_\_\_  
James J. Ajello

Subscribed and sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_

County of \_\_\_\_\_

My commission expires \_\_\_\_\_

ELS

**James J. Ajello - 07/16/2021**

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